

**Ex. 1-B**  
**(Duffey Dep. Tr.)**

**Redacted Version of  
Document Sought to be Sealed**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

IN RE: FACEBOOK, INC., MDL No. 2843  
CONSUMER USER PROFILE Case No.  
LITIGATION 18-md-02843-VC-JSC

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This document relates to:  
ALL ACTIONS

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ZOOM DEPOSITION OF FACEBOOK's 30(b)(6)  
CORPORATE REPRESENTATIVE - MICHAEL DUFFEY  
(Reported Remotely via Video & Web Videoconference)  
Palo Alto, California (Deponent's location)  
Wednesday, June 2, 2022  
Volume I

STENOGRAPHICALLY REPORTED BY:  
REBECCA L. ROMANO, RPR, CSR, CCR  
California CSR No. 12546  
Nevada CCR No. 827  
Oregon CSR No. 20-0466  
Washington CCR No. 3491  
JOB NO. 5234611  
PAGES 1 - 194

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This document relates to:  
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DEPOSITION OF MICHAEL DUFFEY, taken on  
behalf of the Plaintiffs, with the deponent located  
in Palo Alto, California, commencing at  
9:14 a.m., Wednesday, June 3, 2022, remotely  
reported via Video & Web videoconference before  
REBECCA L. ROMANO, a Certified Shorthand Reporter,  
Certified Court Reporter, Registered Professional  
Reporter.

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## CONFIDENTIAL

## I N D E X

DEPONENT EXAMINATION  
MICHAEL DUFFEY PAGE  
VOLUME I

BY MS. WEAVER 14

## E X H I B I T S

NUMBER PAGE

## DESCRIPTION

Exhibit 384 Plaintiffs' Third Amended 17  
Notice of Deposition of  
Defendant Facebook, Inc.  
Pursuant to Federal Rule of  
Civil Procedure 30(b)(6)  
regarding Preservation of  
Relevant ESI;

Exhibit 385 Legal Hold Policy Effective: 32  
June 20, 2020,  
ADVANCE-META-0000489 -  
ADVANCE-META-0000493;

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1	E X H I B I T S(cont'd)		
2	NUMBER		PAGE
3		DESCRIPTION	
4	Exhibit 386	30(b)(6) Deposition Notes	52
5		6/2/2022, Legal Hold Policy	
6		Effective: June 20, 2020,	
7		ADVANCE-META-0000489 -	
8		ADVANCE-META-00003256 - Legal	
9		Hold Policy Effective: June	
10		20, 2020,	
11		ADVANCE-META-0000489 -	
12		ADVANCE-META-00003259;	
13			
14	Exhibit 387	Email & Workplace Chat	103
15		Retention Policy Effective:	
16		October 28, 2022,	
17		ADVANCE-META-0000692 -	
18		ADVANCE-META-0000694;	
19			
20	Exhibit 388	Electronic Communications	104
21		Policy Effective: November	
22		16, 2021,	
23		ADVANCE-META-0000462 -	
24		ADVANCE-META-0000470;	
25	/////		

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1	E X H I B I T S (cont'd)		
2	NUMBER		PAGE
3		DESCRIPTION	
4	Exhibit 389	Gibson Dunn Letter dated	114
5		September 6, 2018;	
6			
7	Exhibit 390	Gibson Dunn Letter dated	116
8		December 9, 2019;	
9			
10	Exhibit 391	US Privacy Program Records	129
11		Management Policy Effective:	
12		April 20, 2021,	
13		ADVANCE-META-0000504 -	
14		ADVANCE-META-0000509;	
15			
16	Exhibit 392	US Privacy Program Records	130
17		Retention Schedule Effective:	
18		April 20, 2021,	
19		ADVANCE-META-0000516 -	
20		ADVANCE-META-0000531;	
21			
22			
23			
24			
25	/////		

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1	E X H I B I T S(cont'd)		
2	NUMBER		PAGE
3		DESCRIPTION	
4	Exhibit 393	US Privacy Program Records	134
5		Retention Schedule Effective:	
6		April 20, 2021,	
7		ADVANCE-META-0000555 -	
8		ADVANCE-META-0000568;	
9			
10	Exhibit 394	Meta US Privacy Program	134
11		Records File Plan;	
12			
13	Exhibit 395	FTC Order Records Management	142
14		Policy Effective: April 28,	
15		2020, ADVANCE-META-0000578 -	
16		ADVANCE-META-0000585.	
17			
18			
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1 Palo Alto, California; Thursday, June 2, 2022 09:04:04

2 9:14 a.m.

3 ---o0o---

4

5 THE VIDEOGRAPHER: Okay. We on the 09:14:31

6 record. It's 9:14 Pacific Time on June 2nd, 2022.

7 This is the depositions of Mike Duffey. We are in

8 the matter In Re: Facebook, Inc. Consumer Privacy

9 User Profile Litigation.

10 I'm John Macdonell the videographer with 09:14:47

11 Veritext.

12 Before the reporter swears the witness,

13 would counsel please identify themselves, beginning

14 with the noticing attorney, please.

15 MS. WEAVER: Good morning, everybody. 09:14:58

16 This is Lesley Weaver of Bleichmar Fonti & Auld on

17 behalf of the plaintiffs.

18 With me today is my partner, Anne Davis,

19 and Josh Samra of my firm is assisting with this

20 deposition. My cocounsel, Derek Loeser and Cari 09:15:10

21 Laufenberg, are also present virtually.

22 MR. FALCONER: Good morning. This is

23 Russ Falconer with Gibson Dunn, here on behalf of

24 Facebook and the witness. I'm here with my

25 colleagues from Gibson Dunn, Dayne Hauser, Hannah 09:15:27

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1 Regan-Smith, and Katie Reyzis. And also with 09:15:31

2 Ian Chen from Facebook.

3 SPECIAL MASTER GARRIE: And

4 Special Master Garrie. I'm here today on behalf of

5 the court. 09:15:42

6 For the record and clarity of the record,

7 there will be one attorney taking and one attorney

8 defending on today's deposition pursuant to the

9 protocol. All lawyers have agreed to or have

10 provided and submitted the signed protective order 09:15:55

11 and will provide copies to counsel and have agreed

12 to as such.

13 That said, I'm turning it over to counsel

14 to start the deposition.

15 THE COURT REPORTER: Mr. Duffey, if you 09:16:07

16 could raise your right hand for me, please.

17 THE DEPONENT: (Complies.)

18 THE COURT REPORTER: You do solemnly

19 state, under penalty of perjury, that the testimony

20 you are about to give in this deposition shall be 09:16:07

21 the truth, the whole truth and nothing but the

22 truth?

23 THE DEPONENT: I do.

24

25 ///// 09:16:24

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1 MICHAEL DUFFEY, 09:16:24  
2 having been administered an oath, was examined and  
3 testified as follows:  
4

5 EXAMINATION 09:16:24  
6 BY MS. WEAVER:

7 Q. Good morning, Mr. Duffey. Will you  
8 please state your full name and employment for the  
9 record.

10 A. Sure. My name is Michael Duffey, 09:16:35  
11 D-U-F-F-E-Y. I am a manager for E-discovery Case  
12 Management within the legal department of Meta  
13 Platforms, Inc.

14 Q. And you understand, Mr. Duffey, that you  
15 are testifying today as a corporate representative 09:16:55  
16 on behalf of Facebook; is that correct?

17 A. Yes, I understand that.

18 Q. And how -- have you been a manager of  
19 E-discovery since June 2021?

20 A. That sounds right. 09:17:12

21 Q. And prior to that time, from roughly 2017  
22 to 2021, you were an E-discovery and litigation  
23 case manager; is that correct?

24 A. That's correct.

25 Q. Is there any difference between those 09:17:25

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1 titles and roles? 09:17:27

2 A. Prior to June 2021, I -- I did not have  
3 any direct reports. I manage three case managers  
4 on the E-discovery team now.

5 Q. And what are case managers in terms of 09:17:51  
6 their roles and responsibilities at Facebook?

7 A. Case managers work with our in-house and  
8 outside legal counsel on litigation and regulatory  
9 matters involving Meta Platforms, Inc. We focus on  
10 the identification, preservation, collection and 09:18:20  
11 production of ESI relevant to a matter.

12 Q. And do you hold a legal degree?

13 A. No, I don't.

14 Q. And prior to Facebook, you worked at  
15 Ropes & Gay -- Ropes & Gray, rather -- as a 09:18:48  
16 litigation paralegal; is that right?

17 A. Litigation paralegal specialist. That's  
18 correct.

19 Q. And then you were at Howrey LLP prior to  
20 that; is that right? 09:18:59

21 A. Correct.

22 Q. I myself was a paralegal at Howrey &  
23 Simon, years ago.

24 Okay. Great.

25 And did -- do you have personal knowledge 09:19:08

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1 of the steps that Facebook took to identify and 09:19:10  
2 collect ESI for production in this matter?

3 MR. FALCONER: Objection. Beyond the  
4 scope of the notice.

5 You can go ahead and answer. 09:19:24

6 THE WITNESS: Yes.

7 Q. (By Ms. Weaver) Who at Facebook was  
8 responsible for the identification and collection  
9 of ESI in response to the filing of this lawsuit?

10 A. Our outside counsel and in-house counsel 09:19:49  
11 are responsible for identify- -- identifying  
12 custodians to be placed on legal hold and  
13 ultimately the custodians who are -- are identified  
14 for collection of ESI.

15 Q. So who specifically by name was 09:20:15  
16 responsible for the identification and collection  
17 of ESI in response to the filing of this lawsuit?

18 MR. FALCONER: Objection. Beyond the  
19 scope of the notice.

20 THE DEPONENT: I'm trying to remember. I 09:20:44  
21 don't know that I can remember all of the names of  
22 the in-house counsel that worked on the  
23 Cambridge Analytica multi-district litigation over  
24 the years. Gibson Dunn has been our lead counsel  
25 on the MDL since 2018. 09:20:59

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1                   Would you like me to try to attempt                   09:21:13  
2           some -- some to name some names or --  
3           Q.     (By Ms. Weaver)   Yes, please.  
4           MR. FALCONER:   Objection.   Beyond the  
5           scope of the notice.                   09:21:22  
6           THE WITNESS:   Ian Chen is the lead  
7           in-house counsel on -- on the MDL currently.  
8           Sandeep Solanki was another in-house counsel who  
9           was involved in the Cambridge Analytica matter.  
10          Natalie Naugle was another in-house counsel working           09:21:54  
11          on the Cambridge matter.  
12          Those -- those are the names that I --  
13          that I recall.  
14          Q.     (By Ms. Weaver)   And with regard -- well,  
15          strike that.                   09:22:19  
16          I'll address the scope objection.  
17          MS. WEAVER:   Let's mark as Exhibit 384  
18          the 30(b)(6) notice, third amended notice of  
19          deposition of Facebook to which you are being  
20          presented as a witness today.                   09:22:37  
21          (Exhibit 384 was marked for  
22          identification by the court reporter and is  
23          attached hereto.)  
24          Q.     (By Ms. Weaver)   And while that's  
25          loading, Mr. Duffey, you've been deposed before,           09:22:41

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1 correct? 09:22:44

2 A. I have, yes.

3 Q. On how many occasions?

4 A. Eight or nine times, I think.

5 Q. How many times in the last year have you 09:22:58

6 been deposed?

7 A. Once, I believe.

8 Q. And what matter was that?

9 A. It was an Instagram matter involving

10 facial recognition. 09:23:24

11 Q. And when was that?

12 A. I don't recall.

13 Q. Was it a remote deposition?

14 A. It was, yes.

15 Q. So just for the record, you seem very 09:23:35

16 proficient and capable of answering testimony today

17 in a manner that will be clear and cogent, but just

18 so we understand each other, these are the rules of

19 the road.

20 I will ask you questions and you will 09:23:50

21 answer, and we will attempt not to talk over each

22 so Ms. Romano can get a clear record.

23 Is that fair?

24 A. Absolutely fair, yes.

25 Q. And you must answer audibly so that we 09:24:02

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1 can get those answers in the record. Shake of the 09:24:04

2 head won't do.

3 Is that fair?

4 A. That's fair, yes.

5 Q. Okay. 09:24:12

6 We can take breaks, you know, as you need

7 during this deposition. You just let me know if

8 you need a break. But we ask that you not take a

9 break while a question is pending.

10 Is that fair? 09:24:24

11 A. Yes, that's fair. Thank you.

12 Q. Okay.

13 How many times have you testified as a

14 corporate representative on Facebook's behalf?

15 A. I believe this is only time or the first 09:24:39

16 time.

17 Q. And how many times have you testified on

18 Facebook's behalf at all in any litigation?

19 A. As -- as a deponent or --

20 Q. Yes, as a deponent. 09:24:59

21 A. I believe eight or nine times.

22 Q. And how many times have you submitted

23 declarations in various litigation matters on

24 behalf of Facebook?

25 A. I don't know the exact number. It would 09:25:26

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1 be over 50 times. 09:25:28

2 Q. And you've submitted a declaration in  
3 this matter, in fact, haven't you?

4 A. I don't recall.

5 Q. Okay. 09:25:51

6 Are you familiar with the Exhibit Share  
7 function so that you can review exhibits as this  
8 deposition proceeds?

9 A. Yes. I have it open, and I believe I've  
10 used it before. 09:26:05

11 Q. Okay.

12 And looking at Exhibit 384, do you  
13 recognize it?

14 A. Yes.

15 Q. What is it? 09:26:48

16 A. What is the document that I'm looking at?

17 Q. Yes.

18 A. It's the plaintiff's third amended notice  
19 of deposition of defendant Facebook Inc. regarding  
20 preservation of relevant ESI. 09:27:00

21 Q. Okay. And do you understand that you are  
22 being produced as a witness today in response to  
23 this notice?

24 A. Yes, I understand that.

25 Q. Okay. 09:27:12

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1 And let's turn to page 7, and 09:27:13  
2 specifically paragraph 11.

3 And I'll direct your attention and read  
4 into the record where it says "'You' or 'your' or  
5 'Facebook' or 'defendant' means defendant Facebook, 09:27:27  
6 Inc., together with your predecessors, successors,  
7 parents, subsidiaries, et cetera."

8 And then if you read on, do you see where  
9 it says "attorneys or other persons occupying  
10 similar positions or performing similar functions"? 09:27:42

11 A. I see that, yes.

12 Q. And when you were identifying who was  
13 involved on behalf of Facebook collecting ESI in  
14 this case, you were referring to attorneys, right?

15 A. I was referring to attorneys, correct. 09:28:04

16 Q. Okay. And who at Gibson Dunn, the  
17 outside counsel, by name can you identify as being  
18 involved in the collection of ESI in this  
19 litigation?

20 MR. FALCONER: Objection. Beyond the 09:28:19  
21 scope of the notice.

22 THE DEPONENT: There have been lots of  
23 attorneys from Gibson Dunn working on the Cambridge  
24 matter: Russ Falconer, Laura Mumm or Munn. I -- I  
25 don't recall people's last names. 09:28:54

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1 I know Rose Ring works on the 09:28:58  
2 Cambridge Analytica matter. The attorneys that are  
3 present today for Gibson Dunn. I'm -- the last  
4 name is escaping me; her name is -- her first name  
5 is Martie, M-A-R-T-I-E. 09:29:21

6 Those are the names that come to mind.

7 Q. (By Ms. Weaver) And for the record, is  
8 that Martie Kutscher Clark to whom you're  
9 referring?

10 A. Correct. Thank you. That's right. 09:29:36

11 Q. No -- no problem.

12 And you were also identifying other  
13 individuals present today. Is that Katie Reyzis  
14 and Dayne Zolle Hauser and Hannah Regan-Smith?

15 A. Correct. 09:29:49

16 Q. Great.

17 And at the outset of the litigation, in  
18 2018, who was responsible for the identification  
19 and preservation of ESI?

20 MR. FALCONER: Objection. Beyond the 09:30:01  
21 scope.

22 THE DEPONENT: We had some ongoing  
23 regulatory matters that overlapped with the  
24 Cambridge Analytica MDL, so I just want to get  
25 clarity on -- on sort of this question. 09:30:29

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1 Is the question specific to -- to the 09:30:31  
2 MDL?

3 Q. (By Ms. Weaver) The question is focused  
4 on what efforts were taken to preserve documents  
5 relating to this litigation. If there was overlap 09:30:43  
6 with some of these efforts with another matter, we  
7 would like to understand that.

8 MR. FALCONER: Same objection as before  
9 for continuing the question.

10 THE DEPONENT: Once again, Gibson Dunn is 09:31:09  
11 lead counsel for the multi-district litigation.  
12 For the regulatory matters, state AG matters, and  
13 the FTC matter involving Cambridge Analytica,  
14 counsel for WilmerHale was involved. We also  
15 worked with the Redgrave firm on some preservation 09:31:32  
16 issues back in that time period. I don't recall  
17 the names of the people that worked on -- on -- on  
18 those matters back in the onset of this litigation.

19 Q. (By Ms. Weaver) What were the  
20 preservation issues which you worked with the 09:31:53  
21 Redgrave firm?

22 MR. FALCONER: Mr. Duffey, I'll just  
23 caution you not to reveal any privileged  
24 communications or privileged information, of  
25 course, in answering that question. 09:32:04

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1 THE DEPONENT: I don't recall. 09:32:15

2 Q. (By Ms. Weaver) Do you have a general  
3 sense of any preservation issues that might have  
4 effected the collection of ESI in this matter?

5 A. No. 09:32:27

6 Q. When was the Redgrave firm retained?

7 A. I don't recall.

8 Q. When you say "preservation issues," what  
9 do you mean?

10 MR. FALCONER: Objection. Form. 09:32:48

11 Go ahead.

12 THE DEPONENT: I didn't issues in -- in  
13 any sort of negative way. It was they -- they were  
14 working on -- as I stated, I don't recall the  
15 specific things. But -- but Redgrave was -- was 09:33:13

16 involved in the steps taken to -- necessary to --  
17 to identify and preserve relevant ESI.

18 Q. (By Ms. Weaver) And what specific steps  
19 are you thinking of?

20 A. The steps I'm thinking of are -- are the 09:33:55  
21 identification of relevant custodians.

22 Q. And how did the Redgrave firm identify  
23 the relevant custodians?

24 A. I don't know that Redgrave exclusively  
25 identified relevant custodians. It certainly was a 09:34:20

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1 collaborative effort between Gibson Dunn and our 09:34:28  
2 in-house counsel working on the matter.

3 Q. And when you say Gibson Dunn in this  
4 particular respect, who specifically by name do you  
5 mean? 09:34:43

6 MR. FALCONER: Objection. Beyond the  
7 scope.

8 THE WITNESS: I don't -- I don't recall.

9 Q. (By Ms. Weaver) Was it Ms. Mumm or  
10 Ms. Kutscher Clark? 09:34:54

11 MR. FALCONER: Same objection.

12 THE DEPONENT: I don't recall either --  
13 I -- I don't recall whether or not they were  
14 working on -- on -- on identification of custodians  
15 in that 2018 time period. 09:35:30

16 Q. (By Ms. Weaver) Okay. Who can you  
17 identify by name -- well, strike this.

18 I'll address the objection again.

19 Looking at Exhibit 3 -- what is again? --

20 84. 09:35:42

21 I'll direct your attention to topic 3.

22 And while you're looking at it, I'll read  
23 it into the record.

24 "All of your efforts to identify and  
25 preserve ESI, personal information, documents, 09:35:52

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1 data, and content and information, including but 09:35:55  
2 not limited to that which was or is associated in  
3 any with the named plaintiffs in this action."

4 Do you see that?

5 It's on page -- 09:36:09

6 A. I do.

7 Q. It's on --

8 A. I see it.

9 Q. Apologies.

10 Is it your understanding you are 09:36:14  
11 testifying on behalf of Facebook with regard to  
12 topic 3?

13 A. My understanding is that -- I would be  
14 speaking to topics as they were laid out in a  
15 letter from Gibson Dunn to plaintiff's counsel 09:36:39  
16 on -- on I think it was May 18th, 2022.

17 Q. Right.

18 But the question I'm asking you is that  
19 do you understand that you are here to testify  
20 regarding Facebook's efforts to identify and 09:36:57  
21 preserve ESI personal information, documents, data,  
22 and content and information relating to this  
23 matter?

24 A. Yes.

25 Q. Going back to the identification of 09:37:16

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25 MR. FALCONER: Same objection. 09:39:08

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1 THE DEPONENT: No. 09:39:13

2 Q. (By Ms. Weaver) Was Josh Lipshutz  
3 involved?

4 MR. FALCONER: Same objection.

5 THE DEPONENT: I don't know. 09:39:25

6 Q. (By Ms. Weaver) Were you?

7 MR. FALCONER: Same objection.

8 THE DEPONENT: I was not involved in the  
9 identification of relevant custodians.

10 Q. (By Ms. Weaver) And the only person you 09:39:39  
11 can think of who was involved in the identification  
12 of relevant custodians by name is Mr. Solanki; is  
13 that right?

14 MR. FALCONER: Same objection.

15 THE DEPONENT: Yes. 09:39:58

16 Q. (By Ms. Weaver) What was the process by  
17 which Facebook identified custodians?

18 A. Our in-house and outside counsel are --  
19 work together to -- to identify relevant custodians  
20 in a matter. 09:40:24

21 Q. How did they work together to identify  
22 the custodians?

23 A. I'm not part of those discussions.

24 Q. So you don't know?

25 A. I know that they collaborate and work 09:40:45

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1 together. To what extent that they do that, I 09:40:47  
2 can't answer that.

3 Q. Okay. I'm just trying to actually  
4 understand the process and what you mean by  
5 "collaborate and work together." 09:40:54

6 Do they interview people? Do they look  
7 at documents? Did you speak with anybody to find  
8 out who was -- and by "you," I mean Facebook -- who  
9 was involved in Cambridge Analytica? What was the  
10 process for identification custodians that Facebook 09:41:06  
11 engaged in this matter in 2018?

12 A. Yes, I do believe that they talked to  
13 employees at the company to understand if there is  
14 any involvement on any matter, including  
15 Cambridge Analytica. We also ask our custodians to 09:41:29  
16 assist in identifying additional custodians that --  
17 that worked on relevant topics related to the  
18 matter, so that -- so that's our process.

19 Q. Okay.

20 Let's return for a moment just back to 09:41:57  
21 Exhibit 384. And looking at the exhibit, do you  
22 understand that you are here to testify on all of  
23 the topics, 1 through 8, identified in Exhibit 384?

24 A. No. As I mentioned, I -- I had  
25 understood that the topics were -- were listed in 09:42:24

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1 the letter to plaintiff's counsel from Gibson Dunn 09:42:31

2 in May -- in May of this year.

3 Q. I understand. I've read the

4 correspondence.

5 But I'm asking you this question: Is 09:42:45

6 there any topic listed in Exhibit 384 upon which

7 you are not prepared to testify generally?

8 MR. FALCONER: Objection. Form.

9 THE DEPONENT: The -- topic 8 is -- is

10 one for which -- I, you know, don't have by name, 09:44:00

11 title, position all persons responsible with the

12 decision-making as it pertains to topics 3 and 7.

13 Q. (By Ms. Weaver) So for the record, topic

14 8 says "identify by name, title, position, employer

15 all persons responsible for and involved with 09:44:20

16 decision-making relating to topics 3 through 7 as

17 well as a general description of these decisions,

18 the timing of those decisions, and the effect of

19 those decisions."

20 That's the topic you were referring to, 09:44:32

21 correct?

22 A. That's the topic I'm referring to, yes.

23 Q. And you're saying you have no knowledge

24 or maybe you have general knowledge with regard to

25 topic 8? 09:44:45

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1           A.     I have general knowledge. The -- but --                 09:44:50  
2     but the topic is asking for all persons and -- and  
3     name, title, and position, which -- which,  
4     you know, depending on the question, I might -- I  
5     might struggle with.   09:45:10

6 Q. Fair enough. That's okay. We  
7 understand.

8 | Let's look for a moment here at topic 1.

9 Is it fair to describe topic 1 as

10 Facebook's guidelines, policies, practices, 09:45:25

11 procedures, rules, et cetera, regarding the

12 collection, preservation, retention of ESI,

13 personal information, documents, data and content,

14 and information relating to this action?

15	MR. FALCONER: Objection. Form.	09:45:49
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16 THE DEPONENT: I did -- I didn't catch a  
17 question there, Counsel. I'm sorry.

18 Q. (By Ms. Weaver) That's okay. I'm just  
19 trying to get your general understanding of what  
20 you think topic 1 entails, so I was asking a 09:46:01  
21 leading question, which I will do again and  
22 hopefully it will be helpful.

23 Is it fair to describe topic 1 as  
24 Facebook's guidelines, policies, practices,  
25 procedures, rules, et cetera, regarding the 09:46:15

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1 collection, preservation, and retention of ESI, 09:46:18  
2 personal information, documents, data, content, and  
3 information relating to this action?

4 MR. FALCONER: Objection. Form.

5 THE DEPONENT: Yes, that's fair. 09:46:36

6 Q. (By Ms. Weaver) What is your  
7 understanding of what ESI is?

8 A. ESI is an acronym for electronically  
9 stored information.

10 Q. And what is electronically stored 09:46:56  
11 information?

12 A. That could be, you know, documents,  
13 communications, electronic communications data,  
14 within the company.

15 (Exhibit 385 was marked for 09:47:18  
16 identification by the court reporter and is  
17 attached hereto.)

18 MS. WEAVER: We are marking as  
19 Exhibit 385 tab 29, Mr. Samra.

20 And for the record, Exhibit 385 -- 09:47:29

21 Q. (By Ms. Weaver) -- which will be up in a  
22 moment, Mr. Duffey. I'm just going to read the  
23 Bates numbers into the record.

24 And you know what those are; is that  
25 correct? A Bates number? 09:47:38

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1 A. I know what a Bates number is, yes. 09:47:39

2 Q. Yes.

3 MS. WEAVER: Exhibit 385 bears Bates

4 numbers Advance-Meta-0000489 through -493.

5 Q. (By Ms. Weaver) And let me know when you 09:47:58

6 have it up.

7 MS. WEAVER: I am informed that it is

8 loaded, and I see the file.

9 THE WITNESS: I have it up now.

10 MS. WEAVER: Okay. Great. 09:48:39

11 MR. FALCONER: Can you give me just a

12 second? Sorry. I'm still --

13 MS. WEAVER: No problem.

14 MR. FALCONER: Sorry.

15 I got it. Thank you. 09:48:46

16 Q. (By Ms. Weaver) And you may take a

17 moment to review it, of course, Mr. Duffey. But

18 when you've had a moment, please tell me whether or

19 not you recognize Exhibit 385.

20 A. Yes, I do recognize it. 09:49:04

21 Q. And what is it?

22 A. It's the company's legal hold policy.

23 Q. And when you say "the company's," do you

24 mean Meta or Facebook?

25 MR. FALCONER: Objection. Form. 09:49:19

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1 THE DEPONENT: When I say "company," I 09:49:26  
2 mean -- I mean Meta Platforms, Inc., but that's  
3 what I -- that's -- that's the company.

4 Q. (By Ms. Weaver) Okay.

5 Is -- but you're here testifying on 09:49:39  
6 behalf of Facebook. Does this -- does  
7 Exhibit 385 -- represent Facebook's current legal  
8 hold policy?

9 MR. FALCONER: Objection. Form.

10 THE DEPONENT: I believe this -- this 09:50:02  
11 policy was put into effect before the company  
12 changed its name from Facebook Inc. to Meta  
13 Platform, Inc. So -- so I would say yes to your  
14 question.

15 Q. (By Ms. Weaver) And in preparation for 09:50:19  
16 your deposition today, did you review other legal  
17 hold notices other than Exhibit 385 -- legal hold  
18 policies, rather?

19 A. Do you mind restating the question?

20 Q. No problem. 09:50:34

21 In preparation for your deposition today,  
22 did you review legal hold policies other than  
23 Exhibit 385?

24 A. I reviewed this document. I did not  
25 review any earlier versions of this policy. 09:50:59

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1 Q. Do earlier versions exist? 09:51:04

2 A. I believe so. At the -- on the last  
3 page, it indicates that there is a -- that what we  
4 are looking at is the portal version 3.

5 So I believe that there were possibly two 09:51:33  
6 earlier versions of this policy.

7 Q. Did Facebook have a legal hold policy in  
8 place in March of 2018?

9 A. I don't believe we had a formal legal  
10 hold policy in place prior to June 10th, 2020. 09:52:08

11 Q. Okay.

12 What did you do to prepare for your  
13 deposition today?

14 A. Counsel, I have a few pages of notes here  
15 in front of me. Is it okay if I -- I refer to 09:52:33  
16 them?

17 Q. You may.

18 MS. WEAVER: And I'll request their  
19 immediate production, Russ. And I really -- just a  
20 standing request that if things like that happen, 09:52:44  
21 these are produced ahead of the deposition so we  
22 can prepare.

23 Q. (By Ms. Weaver) Please go ahead and  
24 answer the question. And, yes, you may rely on  
25 those documents, Mr. Duffey. 09:53:00

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1	A. Thank you.	09:53:03
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2 I met with counsel for Gibson Dunn  
3 approximately for 38 hours over the course of four  
4 weeks. I believe that there were ten sessions.

5 I reviewed the documents that were 09:53:22  
6 produced to plaintiffs, I believe a week or so ago.

7 I reviewed correspondence from Gibson  
8 Dunn to plaintiffs regarding legal hold and -- and  
9 preservation of ESI.

10 I reviewed a handful of documents that 09:53:53  
11 were provided from -- by plaintiffs to Gibson Dunn.

12 I reviewed the 30(b)(6) notice and the  
13 correspondence that I mentioned from May 18th,  
14 2020 -- 2022.

15 I spoke with various employees at the 09:54:25  
16 company to help learn more about the various topics  
17 at issue here.

18 Q. And is all of this information detailed  
19 in the notes that you're reviewing?

20           A.     The -- the timing of the events, the                         09:54:56  
21     number is on -- on the notes. The people that I  
22     spoke with are -- are also listed.

23 Q. Do you have --

24 | A. There's listing --

25	Q. I'm so sorry. Please continue.	09:55:15
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1 A. Oh, I was just -- no, no. 09:55:18

2 You know, I mentioned that I reviewed the  
3 documents. Those are not listed in my notes, no.

4 Q. What documents did you review?

5 A. The policies that were produced to 09:55:38  
6 plaintiffs a week or so ago. I don't know -- I  
7 don't know the exact date that that production was  
8 made.

9 Cor- -- again, correspondence from Gibson  
10 Dunn to plaintiffs regarding the legal hold and 09:56:02  
11 preservation of ESI.

12 I reviewed some documents that plaintiffs  
13 provided to Gibson Dunn.

14 I reviewed the 30(b)(6) notice.

15 I -- I saw -- I reviewed an email from 09:56:34  
16 Special Master Garrie regarding questions he had  
17 for this deposition.

18 Counsel showed me, I believe, the initial  
19 disclosures that plaintiffs filed in this case and  
20 a very short portion of the Tyler King deposition 09:57:17  
21 transcript.

22 Q. Anything else?

23 A. No.

24 Q. What was the subject matter of the  
25 portion of the Tyler King deposition transcript 09:57:41

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1 that you reviewed? 09:57:44

2 A. It was confirmation that her account was  
3 deleted in 2018.

4 Q. And were you involved in seeking to  
5 preserve any ESI relating to Ms. King's account? 09:58:08

6 MR. FALCONER: Objection. Beyond the  
7 scope of the notice.

8 THE DEPONENT: I was not personally  
9 involved, but there were members of my team that --  
10 that were involved. 09:58:26

11 Q. (By Ms. Weaver) And who was that?

12 A. Another case manager on the E-discovery  
13 team. Her name is Jennifer Allen, A-L-L-E-N.

14 Q. And what do you recall about efforts to  
15 preserve ESI relating to Ms. King's account? 09:58:51

16 A. There was an attempt made to take a DYI  
17 snapshot of Ms. King's account as well as there was  
18 a preservation effort to preserve information using  
19 a tool and -- a tool that we call Switchboard.

20 Q. And was, in fact, a DYI snapshot of 09:59:36  
21 Ms. King's account taken?

22 A. We attempted to take those snapshots in  
23 March 9th -- on March 9th, 2020, because Ms. King's  
24 account was deleted in 2018. I don't believe that  
25 there was any data available to be taken as a 10:00:09

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1 snapshot. 10:00:13

2 Q. Were any attempts to take snapshots taken  
3 before March 9th, 2020?

4 A. I know -- I know that our -- our counsel  
5 at Gibson Dunn attempted to obtain information 10:00:39  
6 necessary to identify the named plaintiffs'  
7 accounts. I don't believe we received that  
8 information until late 2019, early 2020.

9 Q. The question was were any attempts made  
10 to take snapshots before March 9th, 2020? 10:01:16

11 A. No.

12 Q. You referenced a tool called Switchboard.  
13 Do you recall that?

14 A. Yes.

15 Q. What is Switchboard? 10:01:40

16 A. Switchboard is a investigative tool that  
17 has information related to Facebook users that our  
18 law enforcement response team is responsible for.

19 Q. And who --

20 A. That tool is used -- I'm sorry. 10:02:10

21 That tool is used to take snapshots of  
22 information about a Facebook user.

23 Q. How is Switchboard different than any  
24 other tool that might be used to take a snapshot of  
25 an account? 10:02:36

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1 MR. FALCONER: Objection. Form. 10:02:37

2 THE DEPONENT: Switchboard and DYI are  
3 very similar in the information that is captured in  
4 a snapshot. Switchboard has some additional  
5 information that DYI doesn't pertaining to Facebook 10:03:03  
6 groups and advertising accounts.

7 Q. (By Ms. Weaver) And specifically, does  
8 Switchboard contain relating to Facebook groups and  
9 advertising accounts that DYI does not?

10 A. My understanding is that DYI doesn't have 10:03:49  
11 information related to whether a user is an  
12 administrator of a particular Facebook group. I  
13 don't believe DYI has information related to a  
14 user's advertising accounts.

15 Q. And when you say "a user's advertising 10:04:13  
16 accounts," what do you mean?

17 A. If a user is selling ads on Facebook.

18 Q. So for the record, Switchboard has  
19 information regarding users' advertisers' accounts  
20 that are used to sell ads on Facebook; is that 10:04:46  
21 correct?

22 A. I'm not -- I'm not sure of the exact  
23 information relating to advertising accounts in  
24 Switchboard. That would be a question for the law  
25 enforcement response team. 10:05:06

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1 Q. What is the law enforcement response 10:05:07

2 team?

3 A. That -- that team is -- is -- receives

4 subpoenas and requests from law enforcement

5 regarding individual users at Facebook. 10:05:31

6 Q. And why does the law enforcement response

7 team use Switchboard as opposed to DYI tool?

8 MR. FALCONER: Objection. Beyond the

9 scope of the notice.

10 And, Mr. Duffey, again, I'll just caution 10:05:49

11 you: Don't reveal any privileged communications

12 you may have had in the course of your work at the

13 company in answering that question.

14 THE DEPONENT: I don't know -- I don't

15 know the -- the -- all of the reasons why the law 10:06:17

16 enforcement response team uses Switchboard. I know

17 that Switchboard was a tool used by that team

18 before DYI. The ability to download your

19 information was available to users.

20 I -- I -- I think that it -- the law 10:06:39

21 enforcement response team can produce records to

22 law enforcement in response to subpoena in a more

23 usable way than DYI has available to it as a

24 download.

25 Q. (By Ms. Weaver) And when you say "in a 10:07:07

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1 more usable way," what do you mean? 10:07:08

2 A. In a, you know -- like a PDF record.

3 Q. And does the Switchboard tool also have

4 the ability to retrieve information not contained

5 in DYI that would include, for example, [REDACTED] 10:07:36

6 [REDACTED] that is not

7 captured by the DYI tool, setting aside the two

8 examples that you earlier identified?

9 A. I don't believe so, no. If a user

10 deletes -- Switchboard, similar to DYI, is a 10:08:01

11 [REDACTED]

12 [REDACTED]

13 take the Switchboard snapshot [REDACTED]

14 [REDACTED] Switchboard,

15 [REDACTED] 10:08:29

16 Q. Does the law enforcement response team

17 use any tools other than Switchboard to collect and

18 provide information about users in response to

19 subpoenas?

20 MR. FALCONER: Objection. Beyond the 10:08:42

21 scope of the notice.

22 THE DEPONENT: I don't know.

23 Q. (By Ms. Weaver) Who would know?

24 MR. FALCONER: Same objection.

25 THE DEPONENT: Somebody -- somebody on 10:09:03

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1 the law enforcement response team would know the 10:09:04  
2 answer to that question.

3 Q. (By Ms. Weaver) Can you identify anybody  
4 by name who was on the law enforcement response  
5 team? 10:09:12

6 A. Yes. I'm going to have a very difficult  
7 time pronouncing or spelling her last name. But it  
8 is, I believe, Lana Schednenko.

9 Another -- another person on -- on that  
10 team is a woman by the name of Beth Jarvis, 10:09:44  
11 J-A-R-V-I-S.

12 Q. Is there anyone else that you can think  
13 of?

14 A. Not by name, no.

15 Q. And these are current employees; is that 10:10:13  
16 correct?

17 A. I believe they are current employees,  
18 yes.

19 Q. Is it your understanding that in response  
20 to a subpoena, the law enforcement response team 10:10:22  
21 provides information about users that goes beyond  
22 the scope of what's in a DYI file?

23 MR. FALCONER: Objection. Beyond the  
24 scope of the notice.

25 THE DEPONENT: I don't know. 10:10:44

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1 Q. (By Ms. Weaver) When Facebook tried to 10:10:48  
2 use Switchboard to retrieve Ms. King's ESI, did  
3 that yield any results?

4 A. I don't believe so.

5 Q. Did Facebook use Switchboard to retrieve 10:11:04  
6 any ESI for any other named plaintiff in this  
7 action?

8 A. I don't understand what you mean by  
9 "retrieve."

10 Q. That's a fair question. 10:11:23  
11 What was Facebook using Switchboard to do  
12 with regard to Ms. King's ESI?

13 A. We attempted to take a snapshot in order  
14 to preserve whatever information was available  
15 regarding Ms. King's account at the time -- at the 10:11:45  
16 time -- at -- yeah, March -- on March 9th, 2020.

17 Q. And is it your testimony that there was  
18 no ESI at all available with regard to Ms. King?

19 A. I don't know if there was any ESI  
20 available at all. I don't believe there was, 10:12:16  
21 but -- but I am not sure.

22 Q. So was there an attempt to retrieve any  
23 data with regard to Ms. King's ESI as opposed to  
24 take a snapshot of what currently existed?

25 MR. FALCONER: Objection. Form. 10:12:36

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1 THE DEPONENT: Again, I -- I'm not -- I'm 10:12:42  
2 not quite -- I don't understand what you mean by  
3 the -- the word "re- -- retrieve."

4 Q. (By Ms. Weaver) When you say you didn't  
5 believe there was any ESI available at all, what 10:12:58  
6 did you mean by "available"?

7 A. Available for preservation purposes.

8 Q. And what does "available" mean?

9 A. That -- that any information existed at  
10 the time that we tried to take the snapshot. 10:13:25

11 Q. When you say "existed," are you including  
12 in that definition data which might exist but had  
13 been anonymized or "pseudonymized" in a way such  
14 that it was just not associated with Ms. King?

15 A. I'm not, no. 10:13:47

16 Q. Were any attempts made to reidentify or  
17 reassociate data with Ms. King's account?

18 MR. FALCONER: Objection. Beyond the  
19 scope of the notice.

20 THE DEPONENT: I don't know. 10:14:03

21 Q. (By Ms. Weaver) Who would know?

22 A. When -- when you -- when you refer to  
23 sort of like anonymization and reidentification, I  
24 think -- I think, to me, that would be a question  
25 for the E-discovery data science team. 10:14:51

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1 Q. And who specifically by name is on that 10:14:57  
2 team who you think might have knowledge of this?

3 A. The two data scientists that I know that  
4 are working on the Cambridge matters are Maggie Ji,  
5 M-A-G-G-I-E J-I. And Gerardo, G-E-R-A-R-D-O, 10:15:13  
6 Zaragoza, Z-A-R-A-G-O-Z-A.

7 Q. And returning to the snapshot tool, do  
8 you know if the snapshot -- or sorry. Strike that.

9 With regard to the Switchboard tool, do  
10 you know if it was used to take a snapshot of any 10:15:51  
11 other named plaintiff's account in this action?

12 A. Yes, it was.

13 Q. For which named plaintiffs?

14 A. These all took place on March 9th, 2020.

15 Steve Akins. 10:16:17

16 Would you like me to spell those names  
17 or -- are we comfortable that everybody knows who  
18 I'm talking about when I --

19 Q. With the court reporter's permission, if  
20 we can skip the spelling, the deposition will be 10:16:30  
21 shorter.

22 MS. WEAVER: Is that okay, Ms. Romano?

23 Okay.

24 Q. (By Ms. Weaver) Yes, you may skip the  
25 spelling and we'll clean that up later. 10:16:37

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1 A. Okay. 10:16:40

2 Jason Ariciu, Anthony Bell, Bridgett  
3 Burke, Terry Fischer, Jordan O'Hara, and Cheryl  
4 Senko.

5 My understanding is that Bridgett Burke, 10:17:03  
6 there was a -- was a second account identified, and  
7 so a -- a Switchboard snapshot was taken on the  
8 second account on September 27th, 20221.

9 Q. So did Facebook produce the Switchboard  
10 snapshots in this action as well as the efforts to 10:17:32  
11 retrieve from the DYI tool?

12 MR. FALCONER: Objection. Beyond the  
13 scope of the notice.

14 THE DEPONENT: The question was has  
15 Facebook produced from the Switchboard tool? I 10:17:50  
16 don't believe so, no.

17 Q. (By Ms. Weaver) And do you know why that  
18 is?

19 MR. FALCONER: Objection. Beyond the  
20 scope of the notice. 10:18:01

21 And, again, Mr. Duffey, to the extent you  
22 can answer that question without revealing any  
23 privileged communications, you can do so. But if  
24 you can't, you should not answer the question.

25 THE DEPONENT: I don't know. 10:18:19

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1 Q. (By Ms. Weaver) Was there a technical 10:18:20  
2 impediment to producing the PDFs from the  
3 Switchboard tool in this case?

4 MR. FALCONER: Objection. Beyond the  
5 scope of the notice. 10:18:27

6 THE DEPONENT: Not that I'm aware of.

7 MS. WEAVER: We would request immediate  
8 production of those PDFs.

9 MR. FALCONER: Understood.

10 Lesley, we've been going just a little 10:18:48  
11 more than an hour --

12 MS. WEAVER: That's fine.

13 MR. FALCONER: When you get to a point,  
14 if we can take a quick break? I don't know if  
15 you're done with Switchboard or not, but -- 10:18:54

16 MS. WEAVER: We can take a break. That's  
17 fine.

18 THE VIDEOGRAPHER: Okay. We're off the  
19 record. It's 10:19 a.m.

20 (Recess taken.) 10:19:01

21 THE VIDEOGRAPHER: Okay. We are back on  
22 the record. It's 10:35 a.m.

23 Q. (By Ms. Weaver) Mr. Duffey, you  
24 understand you're still under oath, correct?

25 A. Yes, I understand that. 10:35:47

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1 Q. And before the break, we were discussing 10:35:49  
2 the Switchboard tool.

3 Do you recall that?

4 A. Yes, I do.

5 Q. And when was the DYI tool first 10:35:56  
6 implemented?

7 MR. FALCONER: Objection. Beyond the  
8 scope of the notice.

9 THE DEPONENT: I don't know.

10 Q. (By Ms. Weaver) You testified earlier 10:36:10  
11 that the Switchboard tool was used before the DYI  
12 tool.

13 Do you recall that?

14 A. Yes, I do recall that testimony, yes.

15 Q. And what, roughly, do you recall about 10:36:21  
16 the timeline of the Switchboard tool being used to  
17 take snapshots of ESI as opposed to the DYI tool?

18 MR. FALCONER: Objection. Beyond the  
19 scope.

20 THE DEPONENT: I started at the company 10:36:41  
21 in -- in 2017, and we have been using Switchboard  
22 since then. I -- I don't recall DYI having been  
23 available for snapshot in that time period. So  
24 that's why my belief is that Switchboard was used  
25 before -- before DYI. 10:37:09

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1 Q. (By Ms. Weaver) And when you say "in 10:37:11  
2 that time period," do you mean 2017 or 2018?

3 A. Yeah, both. You know, it was -- it was  
4 not -- I meant -- I meant 2017 when I started,  
5 but -- but in 2018, I don't recall DYI being used 10:37:32  
6 as -- as a preservation tool for snapshots.

7 Q. Did the DYI tool become the tool to be  
8 used as preservation -- well, strike that. Let me  
9 ask the question again.

10 At some point in time, did Facebook begin 10:38:01  
11 to use the DYI tool to take snapshots for  
12 preservation purposes?

13 MR. FALCONER: Objection. Form.

14 THE DEPONENT: Both are used. I don't  
15 recall when the, you know, the first instance of 10:38:22  
16 E-discovery team using DYI as a preservation  
17 mechanism for user accounts.

18 Q. (By Ms. Weaver) Fair enough.

19 Do you know if the DYI tool is used as  
20 commonly as the Switchboard tool for preservation 10:38:44  
21 snapshots?

22 MR. FALCONER: Objection. Beyond the  
23 scope of the notice.

24 THE DEPONENT: I don't know that.

25 Q. (By Ms. Weaver) In your experience, have 10:38:57



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1 A. March 9th, 2020. And then the second 10:41:18

2 Bridgett Burke account on September 27th, 2021.

3 Q. And you're consulting your notes; is that  
4 correct?

5 A. I am. 10:41:33

6 Q. And I believe if you look in your  
7 Exhibit Share that that -- your notes have been  
8 marked as Exhibit 386.

9 (Exhibit 386 was marked for  
10 identification by the court reporter and is 10:41:53  
11 attached hereto.)

12 Q. (By Ms. Weaver) Do you see that?

13 A. Yes.

14 Q. So looking at Exhibit --

15 And just for the record, what is 10:42:16  
16 Exhibit 386?

17 A. These are notes that I took during the  
18 course of my preparation for this deposition.

19 Q. And when did you prepare these notes?

20 A. I think I started on Monday and continued 10:42:49  
21 to update the notes through yesterday.

22 Q. And looking at the page ending with Bates  
23 number -3258 in Exhibit 386.

24 Do you see a reference to Switchboard  
25 there? 10:43:11

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1 A. Yes. 10:43:15

2 Q. And do you see that it's written "has  
3 more information about other users compared to DYI.  
4 It also has information related to pages, groups,  
5 advertising accounts." 10:43:24

6 Do you see that?

7 A. Yes.

8 Q. How do you know that?

9 A. Based off of discussions with Jen Allen,  
10 Jennifer Allen, who took the snapshots. 10:43:53

11 Q. Thank you.

12 And you believe that to be true, correct?

13 A. Yes, I do believe that to be true.

14 Q. And when you wrote -- I'm sorry.

15 You wrote those sentences; is that right? 10:44:11

16 Is that fair?

17 A. (Nodding.)

18 Yes.

19 Q. Okay.

20 When you wrote "has more information 10:44:18  
21 about other users" --

22 A. Uh-huh.

23 Q. -- what did you mean by "other users"?

24 A. Because Switchboard is used by the law  
25 enforcement response team, I believe that 10:44:40

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1 Switchboard captures additional information about 10:44:44  
2 who the user is interacting with.

3 Q. Would that include [REDACTED]

4 [REDACTED]

5 [REDACTED]? 10:45:12

6 A. I don't know.

7 Q. Do you know specifically what more  
8 information about other users Switchboard has other  
9 than DYI?

10 A. I don't understand the question. 10:45:37

11 Q. I'm just trying to understand when you  
12 say "has more information about other users"  
13 specifically what that is.

14 Can you be more specific?

15 A. Compared to DYI? 10:45:53

16 Q. Yes.

17 A. Is that the question?

18 Q. Yes.

19 A. I don't have that level of detail, no.

20 Q. But Jennifer Allen would; is that right? 10:45:59

21 A. I think that would be more of an  
22 appropriate question to the law enforcement  
23 response team.

24 Q. And did you speak with them in  
25 preparation for your deposition? 10:46:16

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1 A. No. 10:46:18

2 Q. Do you see where you wrote "it" --  
3 meaning Switchboard -- "also has information  
4 related to pages, groups, advertising accounts"?

5 A. Yes. 10:46:35

6 Q. What information does Switchboard have  
7 about pages that the DYI tool does not?

8 A. The question was asking about pages  
9 specifically?

10 Q. Yes. 10:47:02

11 A. I don't know.

12 Q. What information did the Switchboard tool  
13 have about groups that the DYI does not?

14 A. My understanding is that the DYI tool  
15 does not maintain information about groups for 10:47:27  
16 advertising accounts.

17 Q. And when you say "groups," what do you  
18 mean?

19 A. Facebook groups.

20 Q. And can you state for the record what 10:47:44  
21 Facebook groups are?

22 A. Sure. I'm sorry.

23 Q. No problem.

24 A. A group is -- how would I -- if you have  
25 an interest in a specific topic, for instance, 10:48:05

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1 surfing, there could be a group established or -- 10:48:10  
2 or created or in existence that is related to  
3 surfing that you could, you know, join and interact  
4 with others that are not necessarily your -- or not  
5 your friends, but people that have the same level 10:48:29  
6 of interest.

7 So that is the -- a way to interact  
8 outside of your network of -- of friends.

9 Q. Do you know if the Switchboard tool has  
10 the ability to collect information about privacy 10:48:43  
11 settings?

12 A. I believe it does, yes.

13 Q. And what specific information about  
14 privacy settings can the Switchboard tool collect?

15 A. I don't know the answer to that. 10:49:04

16 Q. Okay. What's the basis for saying that  
17 you think it does have the ability to collect  
18 information about privacy settings?

19 A. The basis would just be, you know, having  
20 worked -- worked on a variety of -- of, you know, 10:49:25  
21 legal matters.

22 Q. And what specifically do you know, as you  
23 sit here, about what information about privacy  
24 settings the Switchboard tool can collect?

25 A. I don't know anything specifically. I 10:49:49

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1 just -- I just understand that the Switchboard tool 10:49:50  
2 can -- has -- has information about privacy  
3 settings in it, but -- but nothing specific, to my  
4 knowledge --

5 Q. Okay. 10:50:04

6 A. -- that I can share with me.

7 Q. Fair enough.

8 And when you say "privacy settings," what  
9 do you mean, just so that we understand each other?

10 A. I mean the -- the controls that a user 10:50:18  
11 can set about, for instance, who can see your posts  
12 or -- so -- so the settings for access of -- of  
13 information related to your user account.

14 Q. Do you know if the Switchboard tool  
15 reflects information about privacy settings on 10:50:38

16 [REDACTED] as opposed to [REDACTED]

17 [REDACTED]?

18 A. I don't know.

19 Q. Okay.

20 Does the privacy -- sorry. 10:50:56

21 Does the Switchboard have the ability to  
22 collect information about [REDACTED]

23 [REDACTED]?

24 MR. FALCONER: Objection. Form.

25 THE DEPONENT: I don't know if -- if I 10:51:17

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1 understand the question. What you do you mean by 10:51:19

2 "which apps"?

3 Q. (By Ms. Weaver) That's fair.

4 What is an app, for the record?

5 A. It's -- it's a product that you can 10:51:32

6 download onto your -- onto your phone.

7 Q. Okay.

8 And you're aware that users can download

9 apps through the Facebook platform; is that right?

10 A. Yes. 10:51:51

11 Q. And does the Switchboard tool have the

12 ability to identify [REDACTED] ?

13 MR. FALCONER: Objection. Beyond the

14 scope.

15 But go ahead, Mike. 10:52:02

16 THE DEPONENT: I -- I don't know.

17 Q. (By Ms. Weaver) Do you know who would

18 know?

19 A. I would -- I would refer to the law

20 enforcement response team to be able to answer that 10:52:16

21 question.

22 Q. Okay.

23 Looking a little lower on this page, do

24 you see where it says "Note: In the aggregate,

25 Facebook preserved 52 Switchboard snapshots across 10:52:27

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1 groups, pages, ads accounts in fall 2021 for the 10:52:32  
2 named plaintiffs one identifies as admins."

3 Do you see that?

4 A. I do.

5 Q. What's your understanding of what 10:52:43  
6 happened in fall of 2021 with regard to these  
7 Switchboard snapshots?

8 A. If any of the named plaintiffs were  
9 admins for any groups or pages, then snapshots were  
10 taken of those groups and pages, and if any of the 10:53:06  
11 named plaintiffs had advertising accounts, those  
12 were also captured in a Switchboard snapshot.

13 Q. And for clarity, when you say "named  
14 plaintiffs," you mean the individuals listed above  
15 in that box; is that correct? 10:53:29

16 A. That's correct.

17 Q. And were those 52 Switchboard snapshots  
18 produced in this action?

19 MR. FALCONER: Objection. Beyond the  
20 scope of the notice. 10:53:41

21 THE DEPONENT: I don't believe any  
22 Switchboard snapshots have been produced to date  
23 in -- in this litigation.

24 Q. (By Ms. Weaver) And, again, you're not  
25 aware of any technical impediment that would have 10:53:55

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1 presented their production; is that right? 10:53:58

2 MR. FALCONER: Same objection.

3 THE DEPONENT: No, I'm not.

4 Q. (By Ms. Weaver) And 52 Switchboard

5 snapshots that you referred to there, those were 10:54:15

6 first taken in fall of 2021; is that correct?

7 A. Yes, that's correct.

8 Q. Were similar Switchboard snapshots taken

9 prior to fall of 2021?

10 A. Yes. On March 9th, 2020, we took 10:54:42

11 snapshots of the named plaintiffs' user accounts.

12 Q. So how did the snapshots taken on

13 March 9th of 2020 differ from the 52 Switchboard

14 snapshots taken in fall of 2021?

15 A. In March 9th, 2020, we took snapshots of 10:55:05

16 the user accounts. In the fall of 2021, we took

17 snapshots of groups and pages for which the named

18 plaintiffs were admins and ads accounts associated

19 with the named plaintiffs.

20 Q. And when you say "fall of 2021," what 10:55:30

21 month are you referring to?

22 MR. FALCONER: Objection. Form.

23 THE DEPONENT: I don't know.

24 Q. (By Ms. Weaver) Who would know?

25 A. Jennifer Allen would be able to provide 10:55:50

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1 that information. 10:55:52

2 Q. Why were the 52 Switchboard snapshots  
3 taken in the fall of 2021?

4 MR. FALCONER: And, Mr. Duffey, I'll just  
5 caution you: If you can answer that question 10:56:02  
6 without revealing anything privileged, do so, but  
7 if you can't, please don't answer the question.

8 THE DEPONENT: I can't answer that  
9 question.

10 Q. (By Ms. Weaver) To be clear, when you 10:56:13  
11 testified that the March 9th, 2020 snapshots were  
12 of user accounts, do you mean the DYI tool or do  
13 you mean something different?

14 A. I don't -- I don't understand the  
15 question. 10:56:34

16 Q. Me either.

17 What did you mean when you -- when you  
18 wrote -- when you said that snapshots were taken of  
19 user accounts in March 9 of 2020, what does "user  
20 accounts" mean? 10:56:45

21 A. The -- the Facebook account of the named  
22 plaintiffs.

23 Q. And is what contained in a user account  
24 different than what's available in the DYI tool?

25 MR. FALCONER: Objection. Form. 10:57:04

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1 THE DEPONENT: I understand that there 10:57:22  
2 may be some differences between what a snapshot of  
3 a Facebook user account is in Switchboard versus  
4 what is captured in a DYI for a Facebook user, but  
5 I don't know what those differences are. My 10:57:47  
6 understanding is they are very -- very similar, but  
7 there is -- but there are some differences.

8 Q. (By Ms. Weaver) Okay. I'm a little  
9 confused by what you mean by "user accounts" and  
10 the difference between user accounts and DYI. 10:58:08

11 Are you using those terms to be  
12 synonymous or are they different?

13 A. Well, DYI is the -- the tool that allows  
14 Facebook users to download their information.  
15 Switchboard is a tool -- internal tool used by 10:58:38  
16 Facebook to preserve information related to  
17 Facebook accounts, user accounts.

18 So I am -- when I say "user account,"  
19 I'm -- I'm referring to the Facebook account of the  
20 named plaintiffs. 10:59:01

21 Q. So I apologize for being thick. I'm just  
22 trying to get this clear for the record.

23 When you say that there was a snapshot of  
24 user accounts on March 9, 2020, was that with the  
25 DYI tool? 10:59:14

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1           A.     No, it was not. The -- the -- I have                         10:59:18  
2     a -- on my other -- another page of notes. I have  
3     a table that was -- that provides the detail of  
4     when the DYI snapshots were taken.

7	A. That's correct.
---	--------------------

12	A. That's correct.
----	--------------------

17	A. That's correct.
----	--------------------

22 MR. FALCONER: Objection. Beyond the  
23 scope of the notice.

25	Q. (By Ms. Weaver) Who would know?	11:00:54
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1 A. I -- I could find out that information. 11:01:05  
2 I just don't know that sitting here. Counsel for  
3 Gibson Dunn could -- could also get that  
4 information. Our E-discovery team would know. I  
5 just -- I just don't know the answer to that 11:01:17  
6 question as I sit here.

7 Q. Okay.

8 And do you see that in your notes here,  
9 you refer to "TAO," the associations and objects  
10 database? 11:01:41

11 A. Yes.

12 Q. Is it fair to call it a database?

13 A. I don't know. I don't know if it would  
14 be called a database.

15 Q. Let's call it a data source. Fair 11:01:53  
16 enough.

17 Do both DYI and Switchboard pull data  
18 from TAO?

19 A. I believe so, yes.

20 Q. Do they pull different data from TAO than 11:02:10  
21 each other?

22 A. I think I mentioned this before. My  
23 understanding is that the Switchboard snapshots can

24 [REDACTED]

25 [REDACTED]. So -- so while I -- I don't know 11:02:53

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1 specifically what the differences are. I do 11:03:00  
2 believe that that Switchboard does collect -- or  
3 collect additional information potentially from TAO  
4 that is not collected in a DYI snapshot.

5 Q. And do you see on page -3258 you've got a 11:03:28  
6 heading "Facebook can remove objects and  
7 associations," and then there's a bullet point that  
8 says "Facebook deprecates products and features,  
9 and objects and associations would be deleted when  
10 this happens"? 11:03:51

11 Do you see that?

12 A. Yes.

13 Q. What does "deprecate" mean, for the  
14 record?

15 A. No longer available for use. 11:04:05

16 Q. And below that it says "[REDACTED]  
17 [REDACTED]  
18 [REDACTED]."

19 Do you see that?

20 A. Yes, I do. 11:04:17

21 Q. What does that mean?

22 A. So if -- if -- if a snapshot, whether it  
23 would be in DYI or Switchboard, was [REDACTED]  
24 [REDACTED], then that

25 [REDACTED] -- 11:04:46

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1 the [REDACTED]. 11:04:48

2 After deprecation, if [REDACTED]

3 [REDACTED]

4 [REDACTED].

5 Q. And looking at the chart at -3257 under 11:05:06

6 DYI, there it says "user accounts January 23,

7 2020."

8 Do you see that?

9 A. Yes.

10 Q. And that reflects when the DYI snapshots 11:05:24

11 occurred, correct?

12 A. That is the first day in which a DYI

13 snapshot occurred.

14 Q. And do you know why Switchboard snapshots

15 did not also occur in January of 2020? 11:05:40

16 MR. FALCONER: Same instruction as

17 before, Mr. Duffey, not to reveal any privileged

18 conversations or privileged information you may

19 have in the course of answering that question.

20 THE DEPONENT: I can't answer that 11:06:01

21 question.

22 Q. (By Ms. Weaver) Do you know of any

23 technical reason why the Switchboard snapshots did

24 not occur in January of 2020?

25 A. No. 11:06:16

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1 Q. And by that, you understand I mean like a 11:06:17  
2 practical impediment to actually taking the  
3 snapshot? Is that fair?

4 A. That's fair.

5 Q. Okay. 11:06:24

6 So we were talking a moment ago about  
7 objects and associations, and then I'll refer you  
8 back to the bullet point below the one we just read  
9 where it says "preserved if data captured in Hive  
10 placed on legal hold." 11:06:45

11 Do you see that?

12 A. Give me one second.

13 Q. Sorry. It's the third bullet point down.

14 A. Yes, I see it.

15 Q. What is Hive? 11:07:04

16 A. I'm going to refer to my notes.

17 Hive is a -- a data warehouse that  
18 captures and stores data about its products and  
19 services, also user activity for analytics  
20 purposes. 11:07:33

21 Q. And are you looking at page -3258 of  
22 Exhibit 386?

23 A. Yes, I am.

24 Q. And how did you develop your  
25 understanding of what Hive is? 11:07:53

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1           A.    My understanding of Hive has evolved over           11:08:02  
2           time, since I started working at the company in  
3           2017. I also had some discussions with our data  
4           science team in preparation for this deposition.

5           Because I'm not a data scientist or a computer           11:08:24  
6           science engineer, I thought it would be helpful to  
7           prepare notes about -- about Hive and what it is.

8           Q.    And when you say the -- the data  
9           scientists you're referring to are Maggie Ji and  
10          Gerardo Zaragoza; is that right?           11:08:47

11          A.    That's correct.

12          Q.    And did you develop your understanding of  
13          Hive in preparation for this deposition by speaking  
14          with anyone other than them?

15          A.    Can you repeat the question.           11:09:03

16          Q.    Sure.

17                Are those the only two people that you  
18          conferred with regarding Hive in preparation for  
19          your deposition?

20          A.    That's correct.           11:09:13

21          Q.    And going back to the bullet point that I  
22          referred to -- it's three down on -3257.

23                Do you see the one that says "preserved  
24          if data captured on Hive placed on legal hold"?

25          A.    Yes.           11:09:42

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1 Q. Can you identify which data in Hive was 11:09:42  
2 placed on legal hold for this case?

3 A. No, I can't.

4 Q. Can anyone?

5 A. Can you -- can we go back two questions 11:10:09  
6 ago? Just so I -- I understand the question.

7 Q. Yeah. No problem.

8 Let me try it this way. Was any data in  
9 Hive placed on legal hold for this case?

10 A. Yes. 11:10:33

11 Q. What data in Hive was placed on legal  
12 hold for this case?

13 A. I understand that there are 137 Hive  
14 tables placed on legal hold for the  
15 Cambridge Analytica matter. We don't maintain a 11:10:51  
16 description or -- a description of the fields or  
17 Hive tables that have been placed be on hold.  
18 If -- if I were to -- you know, needed to  
19 understand what data from those 137 tables, that  
20 would be a -- a question for the E-discovery data 11:11:34  
21 science team.

22 Q. It is possible for Facebook to identify  
23 those 137 Hive tables, correct?

24 A. Yes. Our data science team could  
25 identify those tables. 11:11:53

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1 Q. And do you know how those Hive tables 11:11:55  
2 were selected?

3 MR. FALCONER: And, again, Mr. Duffey,  
4 same -- same instruction about not revealing  
5 anything privileged in the course of your answer. 11:12:08

6 THE DEPONENT: In general, similar to  
7 identifying custodians relevant to a matter.  
8 Our -- our in-house and outside counsel conducts  
9 custodian interviews to -- to help identify  
10 relevant Hive tables to be placed on legal hold. 11:12:30

11 Q. (By Ms. Weaver) When were the Hive  
12 tables that we have been the discussing, the one --  
13 137, placed on legal hold?

14 A. I -- I don't have the answer to that.

15 Q. Who would know? 11:13:00

16 A. That would be a question for the -- the  
17 E-discovery data science team.

18 Q. Looking at your notes here the last page  
19 ending at -3259, there's a square bullet point that  
20 says "iData allows searching for Hive tables and 11:13:21  
21 indicates if table is on hold."

22 Do you see that?

23 A. Yes.

24 Q. So is iData a tool?

25 A. I don't know. I don't know if -- if -- 11:13:39

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1 it's a appropriate to describe it as -- as a tool. 11:13:42  
2 But it -- it allows the ability to determine if  
3 a -- if a specific Hive -- Hive table is on legal  
4 hold.

5 Q. Do you see above that there's a square 11:14:07  
6 bullet point that says "stops partitions from being  
7 deleted or modified, archived into a secured area  
8 and hold storage"?

9 Do you see that?

10 A. Yes. 11:14:19

11 Q. What does it mean to stop a partition  
12 from being deleted or modified?

13 A. So one way would I describe a partition i  
14 it's -- it's a set -- set amount of data within a  
15 legal hold. 11:14:41

16 So Hive data can be updated every single  
17 day, and a partition can be described as that --  
18 you know, a single day or a, you know, Hive table  
19 of data going into a Hive table.

20 What the legal hold process does is it 11:15:08  
21 prevents a partition from being deleted or modified  
22 before -- or it prevents it and puts that data into  
23 cold storage before the data gets deleted or  
24 modified pursuant to, you know, the retention  
25 period that the table owner, the Hive table owner, 11:15:34

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1 sets. 11:15:37

2 Q. And then it says "archive into a secured  
3 area in cold storage."

4 Do you see that?

5 A. Yes. 11:15:54

6 Q. So does the legal hold archive the data  
7 in Hive into cold storage?

8 MR. FALCONER: Objection. Form.

9 THE DEPONENT: Can you repeat the  
10 question. 11:16:17

11 Q. (By Ms. Weaver) Does the legal hold  
12 cause the data to be archived into a secured area  
13 in cold storage?

14 A. Yes.

15 Q. And what is cold storage? 11:16:35

16 A. I don't know if I can provide the  
17 definition of what cold storage is, but I -- but  
18 that -- that is the storage space for which we put  
19 legal hold Hive -- Hive data that is on legal hold  
20 to prevent it from being deleted or modified. 11:17:07

21 Q. And so for the 137 tables that Facebook  
22 put into cold storage for this case, the tables  
23 themselves that were not put into storage are being  
24 constantly overwritten; is that right? Like  
25 there's a copy that was put in cold storage and 11:17:33

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1 then there's sort of the active table; is that 11:17:35  
2 right?

3 MR. FALCONER: Objection. Form.

4 THE DEPONENT: I'm not sure I understand  
5 the question. 11:17:47

6 Q. (By Ms. Weaver) I'm going to ask a bunch  
7 of bad questions to try to get to a good clear one,  
8 because I don't really understand.

9 So the act of putting a legal hold on a  
10 table, does that a snapshot or make a replica that 11:17:56  
11 is then put into cold storage?

12 A. It would -- it would take data from the  
13 Hive table that would be -- for instance, scheduled  
14 to be deleted or anonymized and put the partition  
15 into cold storage before that data were to be 11:18:24  
16 deleted, scheduled to be deleted at -- on the  
17 timetable that is set by the table owner.

18 Q. And you don't know when these 137 Hive  
19 tables were put on legal hold; is that right?

20 A. I don't know the dates of when all -- 11:18:50  
21 when the tables were put on legal hold, no.

22 Q. But that is something that Facebook could  
23 tell us; is that right?

24 A. I believe the E-discovery data science  
25 team could provide that information, yes. 11:19:04

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1 MS. WEAVER: And, Mr. Falconer, we're 11:19:06  
2 going to ask for that information.

3 MR. FALCONER: Yeah -- yeah. Let's talk  
4 about that after the deposition, given the volume,  
5 so -- but yeah, understood. 11:19:12

6 Q. (By Ms. Weaver) For -- and this is the  
7 piece that I'm not asking good questions about and  
8 I want to understand.

9 So data is put in cold storage. Do -- do  
10 some version of those tables continue to exist that 11:19:26  
11 is overwritten and used such that if you went to  
12 the existing operative table, the one that is not  
13 in cold storage, it will not contain data that the  
14 tables in cold storage contain?

15 A. Potentially, yes. For example, if a 11:19:45  
16 table has user identifiable information, like an  
17 email address of the user, that information can  
18 only be retained up to 90 days, and so -- and  
19 that's where I was talking about a partition. So  
20 if -- if the -- if the data were scheduled to be 11:20:25  
21 deleted on the 90th day, the legal hold would take  
22 that partition and put it in cold storage before  
23 that active Hive table data gets deleted.

24 Q. I know you said you don't know, but I'm  
25 just going to ask to see if I can jog your memory. 11:20:51

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1 Do you know if these Hive tables were put 11:20:54  
2 on hold in 2018?

3 MR. FALCONER: Objection. Form.

4 THE DEPONENT: I -- I couldn't give you  
5 an accurate answer without, you know, consulting 11:21:15  
6 with the data science team on that.

7 Q. (By Ms. Weaver) Do you know what year  
8 roughly the Hive tables were put on hold?

9 MR. FALCONER: Objection. Form.

10 THE DEPONENT: We're talking about 137 11:21:39  
11 Hive tables. I would imagine that Hive tables were  
12 put on legal hold starting in 2018 and have,  
13 you know, as additional -- you know, again, as  
14 additional Hive tables are identified relevant to a  
15 matter, we work with our -- our in-house and 11:22:04  
16 outside counsel and our data science team and  
17 E-discovery to place those Hive tables on legal  
18 hold.

19 When those occurred across the 137, I  
20 can't tell you. 11:22:27

21 Q. (By Ms. Weaver) Do you know if any Hive  
22 table was put on legal hold in 2018?

23 A. Specific to Cambridge Analytica?

24 Q. Yes.

25 A. Yes, I believe so. 11:22:48

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1 Q. Do you know which ones? 11:22:50

2 A. I don't.

3 Q. And why do you say "yes, I believe so"?

4 A. So I -- I've been working on

5 Cambridge Analytica matters since March 2018. I'm 11:23:10

6 just thinking back to that time and -- and,

7 you know, recall outside counsel working with

8 E-discovery data scientists at the time. So

9 that's -- that's the extent of like my memory about

10 that. 11:23:40

11 Q. Who were the E-discovery data scientists

12 involved in this process in 2018?

13 A. Gerardo Zaragoza.

14 Q. Anyone else?

15 A. We were a much smaller team at the time. 11:24:14

16 Gerardo is the one that comes to mind that -- that

17 was employed and working in the E-discovery team at

18 the time.

19 Q. Thank you.

20 Do you see the bullet point where you 11:24:41

21 wrote "teams are informed about a Hive table on

22 hold"?

23 A. Yes.

24 Q. What do you mean by "teams"?

25 A. The -- I -- I meant by "teams" is the 11:24:54

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1 table owner. 11:24:58

2 Q. And how were they informed?

3 A. My understanding from discussions with

4 Maggie Ji is that an email notification goes out to

5 the table owners that a Hive table is placed on 11:25:17

6 hold.

7 There are other ways where table owners

8 or people with access to a Hive table can receive a

9 notification. For instance, in that iData space,

10 you can see if a Hive table is on legal hold. 11:25:45

11 I also understand that if a Hive owner

12 were to modify data within -- within a table that

13 there would be a -- a notification that that table

14 is on legal hold and that data cannot be modified

15 or deleted. 11:26:15

16 Q. Thank you. That's very helpful.

17 Is it fair to say, then, that these 137

18 Hive tables can be searched by UID?

19 MR. FALCONER: Objection. Form.

20 THE DEPONENT: I don't know the answer to 11:26:31

21 that.

22 Q. (By Ms. Weaver) Do you see where the

23 bullet point on the last page, second from the top,

24 says "UII 90 days maximum. Longer than 90 days UII

25 has to be deleted. RID replaces UID." 11:26:48

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1 Do you see that? 11:26:53

2 A. Uh-huh. I do.

3 Q. So is one reason that these tables were

4 put on legal hold was to prevent the process by

5 which RID replaces UID? 11:27:02

6 MR. FALCONER: Mr. Duffey, same caution

7 about not revealing any privileged information or

8 privileged communications in answering that

9 question.

10 THE DEPONENT: I don't know the answer to 11:27:21

11 that question.

12 Q. (By Ms. Weaver) By putting this table on

13 legal hold, did that prevent UIDs from being

14 replaced by RIDs?

15 A. If a UID is present within any of these 11:27:37

16 tables on legal hold, yes.

17 Q. And you're familiar with the Hive Anon

18 process; is that right?

19 A. A little bit, yes.

20 Q. Okay. And the Hive Anon process is the 11:27:57

21 process we were just discussing where RID replaces

22 UID; is that correct?

23 A. Yes.

24 Q. And so legal hold prevents the Hive Anon

25 process from operating; is that right? 11:28:12

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1           A.    If that -- if that -- it was one of the,                   11:28:16  
2    you know -- one of the -- you know, it really  
3    depends on -- on the Hive table, the reason why  
4    we're placing on legal hold. Potentially yes. I  
5    just can't give you an answer specific to any of                   11:28:33  
6    these 137 tables on legal hold.

7           Q.    Do you know in general if the 137 tables  
8    on legal hold include the Hive tables that are most  
9    frequently in use?

10           MR. FALCONER: Objection. Form.                   11:28:58

11           THE DEPONENT: There's upwards of, I  
12    think, [REDACTED] Hive tables. I -- I don't know.  
13    I don't know what you mean by "most frequently in  
14    use." But I also don't think I would be able to  
15    answer that question, because I -- I don't know                   11:29:23  
16    the, you know, specifics of -- of the 137 tables on  
17    legal hold for this matter.

18           MS. WEAVER: Okay.

19           I think we can take a break now. It's  
20    been about an hour.                   11:29:47

21           MR. FALCONER: Sure.

22           THE VIDEOGRAPHER: Okay. And we're off  
23    the record. It's 11:29 a.m.

24           (Recess taken.)

25           THE VIDEOGRAPHER: Okay. We're back on                   11:42:06

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1 the record. It's 11:42 a.m. 11:42:07

2 Q. (By Ms. Weaver) Mr. Duffey, in your  
3 testimony just a moment ago, we were talking about  
4 the effect of legal hold on Hive tables.

5 Do you recall that? 11:42:19

6 A. Yes.

7 Q. And what do you mean by a "legal hold"?

8 A. A legal hold is a preservation step that  
9 the E-discovery team undertakes to preserve  
10 relevant Hive table data related to a matter. 11:42:44

11 Q. Okay. And looking back at Exhibit 385,  
12 there is a definition of a "legal hold notice" on  
13 the second page of that document ending at Bates  
14 number -490.

15 Do you see that? 11:43:08

16 A. I do.

17 Q. And it says "a legal instruction to  
18 preserve and not delete, destroy, or otherwise  
19 modify relevant information relating to a legal  
20 matter." 11:43:26

21 Do you see that?

22 A. Yes.

23 Q. And when you were referring to legal hold  
24 and when you're referring to legal hold in  
25 Exhibit 386, do you mean a legal hold notice? 11:43:38

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1           A.    No.   I -- I had understood your line of                   11:43:45  
2           questioning to be specific to Hive -- Hive tables.  
3           A legal hold notice is -- is something -- is not  
4           what I was referring to when I was answering your  
5           questions about Hive.   11:44:02

6           Q.    Okay.   So you testified that Exhibit 385  
7           is the current legal hold policy, and there was no  
8           formal legal hold policy at Facebook until March of  
9           2020; is that correct?

10          A.    I'm just looking at -- at Exhibit 385.                   11:44:28  
11          It indicates that this policy was first posted on  
12          June 10th, 2020.   I'm not sure where we're getting  
13          that March date.

14          Q.    Okay.   Fine.   I stand corrected.  
15                So the first legal hold policy at                       11:44:47  
16          Facebook at any point in time was June 10th, 2020;  
17          is that right?

18          A.    That is my understanding, yes.

19          Q.    And then in Exhibit 386, when you're  
20          referring to the legal hold on the Hive tables,               11:45:08  
21          does that mean this legal hold policy such that the  
22          legal hold could not have happened prior to  
23          June 10th, 2020?

24          A.    No.

25          Q.    Okay.   That's why I'm asking.                       11:45:25

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1 A. Yeah. 11:45:27

2 Q. So when you were -- yeah. Let me ask the  
3 question again and then you can --

4 So in Exhibit 386, when you were  
5 referring to the legal hold place had on Hive 11:45:33  
6 tables, what do you mean?

7 A. That is the actual preservation step  
8 taken by the E-discovery team at the direction of  
9 legal counsel to preserve the -- the relevant data  
10 contained within those Hive tables. 11:45:55

11 So that's what I mean by -- by legal  
12 hold.

13 Q. And looking again at 386, that page  
14 ending at Bates number 3256, you wrote  
15 "Cambridge Analytica legal hold 469 total 11:46:14  
16 custodians on hold as of May 31, 2022."

17 Do you see that?

18 A. Yes. One second.

19 I do, yes.

20 Q. And that's referring to the legal hold 11:46:31  
21 notice; is that right?

22 A. That's correct.

23 Q. And is that the same legal hold notice or  
24 one of them that may have triggered the legal hold  
25 in the 137 Hive tables? 11:46:45

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1           A.    No.  It's -- it's a separate action.  The           11:46:54  
2    legal hold notice is -- is sent through a -- a tool  
3    that -- that the E-discovery case managers have  
4    access to called "Legal Hold Pro."  The legal holds  
5    that are done within Hive are -- are done,                   11:47:16  
6    you know, separately.

7           Q.    And those are done by the data science  
8    team; is that right?

9           A.    The preservation of Hive data tables  
10   using legal hold is done by our E-discovery data           11:47:37  
11   science team.

12          Q.    Is there a similar procedure for legal  
13   holds to be placed on TAO?

14          A.    My understanding is that [REDACTED]  
15   [REDACTED]   11:48:05  
16   [REDACTED], and that is why we take snapshots  
17   in time using Switchboard and DYI.

18          Q.    With regard to the named plaintiffs'  
19   data, has Facebook done anything other than take  
20   the snapshots identified in Exhibit 386?                   11:48:34

21               MR. FALCONER:  Objection.  Form.

22               THE DEPONENT:  We, as I mentioned, have  
23   put 137 Hive -- Hive tables on legal hold.  We also  
24   have a legal hold notification that goes to -- has  
25   gone to 469 custodians.                                       11:49:12

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1                   So -- so I think more has been done other                   11:49:20  
2                   than the snapshots through DYI and Switchboard.

3                   Q.     (By Ms. Weaver)   So to be clear, the  
4                   actions taken by Facebook in addition to the  
5                   snapshots identified in 386 is to put the 137 Hive                   11:49:45  
6                   tables on legal hold and a legal hold notice has  
7                   gone to 469 Facebook custodians, correct?

8                   A.     As of -- as of May 31st, 2022, that's  
9                   correct.

10                  Q.     And is there anything else Facebook has                   11:50:05  
11                  done to preserve the named plaintiffs' data other  
12                  than the snapshots and putting the Hive tables in  
13                  cold storage?

14                  MR. FALCONER:   Objection.   Form.

15                  THE DEPONENT:   I'm -- I'm not aware of                   11:50:40  
16                  all the places to -- for which named plaintiff data  
17                  is stored within, you know, Facebook's internal  
18                  systems.   Unless a user were to delete their  
19                  account, we would have potentially additional named  
20                  plaintiff data in our internal -- some of our                   11:51:13  
21                  internal tools and systems.

22                  Q.     (By Ms. Weaver)   Which internal tools and  
23                  systems are you referring to that might also  
24                  contain named plaintiff data?

25                  A.     There is a -- a tool called "SRT."   It's                   11:51:41

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1 the single -- it stands for -- I think "single 11:51:46  
2 review tool," which contains information related to  
3 users and activities of users.

4 There is an -- another sort of -- what we  
5 describe as an investigative tool called "Centra" 11:52:07  
6 which we -- Facebook personnel with access to  
7 Centra could obtain information related to Facebook  
8 users.

9 Those -- those are the two main ones that  
10 come to mind for me. Again, I -- I -- I'm not sort 11:52:54  
11 of familiar with all internal tools that contain  
12 user data, but those are two main ones that I'm  
13 familiar with.

14 Q. Thank you.

15 With regard to SRT, or the single review 11:53:11  
16 tool, is information available through SRT that is  
17 not captured through the DYI tool or through the  
18 Switchboard tool?

19 A. That -- that is a tough question to  
20 answer. The -- the single review tool is used by 11:53:40  
21 many different pillars within the company. I don't  
22 know the answer to that question.

23 Q. And you said Centra is an investigative  
24 tool. What did you mean by that?

25 A. It's -- it's a tool that, you know, 11:54:14

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1 specific teams -- for instance, I have access to 11:54:20  
2 Centra and can -- if I have the appropriate UID  
3 information can look up some basic information  
4 pertaining to an individual Facebook user.

5 Q. And when you say "basic information," 11:54:50  
6 what do you mean?

7 A. For instance, registration date, email  
8 address used to -- or phone number used to sign up  
9 for an account. There are links to posts and  
10 messages. There are -- could be information about 11:55:24  
11 a user if they have, for instance, an -- an ads  
12 account or an Instagram account, that basic  
13 information tied to that Facebook user would also  
14 be, you know, present in Centra.

15 Q. Does Centra make accessible information 11:55:57  
16 not available in -- through the DYI or Switchboard  
17 tools?

18 A. I'm not sure.

19 Q. When did SRT first come into use?

20 A. I want to say 2017, but -- but I'm not 11:56:39  
21 certain on that.

22 Q. And when did Centra first come into use?

23 A. I don't know.

24 Q. Was it within the last three years?

25 A. I -- I have -- I don't know. 11:56:58

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1 Q. When did you first get access to Centra? 11:57:00

2 A. I think it was pre-COVID, so 2021 -- or

3 no. Excuse me. 2019, early 2020.

4 Q. Time has flown, hasn't it?

5 With regard to SRT -- 11:57:38

6 A. Or stopped.

7 Q. Something, right? It's in cold storage.

8 With regard to SRT, is that searchable by

9 UID or user name?

10 A. Centra is -- I don't know if SRT is -- is 11:58:15

11 searchable by that way.

12 Q. How does SRT search in general?

13 A. As I mentioned, there are different

14 pillars that use SRT, so like depending on the

15 pillar, that search capability could be different. 11:58:41

16 I haven't attempted to run any searches in SRT

17 for -- for a while, so I -- I don't -- I don't know

18 all of the fields or information required to search

19 within SRT.

20 Q. Okay. And when you say "different 11:59:03

21 pillars," what do you mean?

22 A. So, for instance, the research team has a

23 pillar within SRT. I know that privacy operations

24 has a pillar within SRT. The one that I was

25 thinking about was the pillar for community 11:59:37

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1 operations, that instance within SRT. 11:59:45

2 Q. And so when I asked where named plaintiff  
3 data might reside and you responded thinking about  
4 SRT, was that because you thought named plaintiff  
5 data might be in community operations? 12:00:04

6 A. In -- that's correct.

7 Q. And how would you search for a named  
8 plaintiff data in community operations?

9 MR. FALCONER: Objection. Beyond the  
10 scope. 12:00:17

11 But go ahead.

12 THE DEPONENT: I don't know that I would  
13 go into SRT to search for specific named plaintiff  
14 data. The Centra tool is -- is where I would run a  
15 search for user -- you know, if I had user 12:00:39  
16 identifiable information, and then there could be  
17 links to SRT through Centra. And so that -- that  
18 is the way that I would think about navigating  
19 between those two tools.

20 Q. (By Ms. Weaver) And how long does it 12:01:08  
21 take to run a search in Centra for one person?

22 MR. FALCONER: Objection. Form.

23 THE DEPONENT: If I had -- I'm sorry.

24 MR. FALCONER: No. Go ahead.

25 THE DEPONENT: It depends. If I have 12:01:24

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1 exact information about a particular user, the 12:01:28  
2 search is -- is -- is, you know, within seconds.

3 Q. (By Ms. Weaver) And do you know if  
4 Centra searches have been run for the named  
5 plaintiffs in this case? 12:01:49

6 MR. FALCONER: Objection. Beyond the  
7 scope.

8 THE DEPONENT: I don't know. I don't  
9 know.

10 Q. (By Ms. Weaver) And clarifying question. 12:02:10  
11 Is Centra a tool or is it also a  
12 repository of named plaintiff data?

13 MR. FALCONER: Objection.

14 THE DEPONENT: I would describe it as a  
15 tool. 12:02:24

16 MR. FALCONER: I want to get the  
17 objection on the record.

18 This is beyond the scope of the notice.

19 But go ahead.

20 MS. WEAVER: Sorry, Russ. 12:02:30

21 MR. FALCONER: It's okay.

22 Q. (By Ms. Weaver) And what data sources do  
23 Centra and SRT search?

24 MR. FALCONER: Same objection.

25 THE DEPONENT: I don't know. 12:02:44

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1 Q. (By Ms. Weaver) And do you know if the 12:02:44  
2 data sources that Centra and SRT search were  
3 preserved?

4 MR. FALCONER: Same objection.

5 THE DEPONENT: Barring a user deleting 12:03:04  
6 their -- their account, that information would be  
7 preserved or retained within either Centra or SRT  
8 without having to, you know, proactively take steps  
9 to -- to preserve that information.

10 Q. (By Ms. Weaver) I think I'll come back 12:03:54  
11 to that.

12 For the record, no snapshots were taken  
13 for any named plaintiff between January 23rd,  
14 2020 -- I'm sorry. Let me ask the question again.

15 There were no snapshots taken for named 12:04:08  
16 plaintiffs between March 9, 2020, and March 15,  
17 2022; is that correct?

18 A. I think there -- there are some  
19 exceptions to that. For instance, Bridgett Burke  
20 had, you know, two accounts. It looks like Terry 12:05:05  
21 Fischer, a snapshot in DYI was taken on April 20th,  
22 2020.

23 So -- so Terry Fischer and Bridgett Burke  
24 are two exceptions. All other named plaintiffs  
25 that -- that -- you're correct. 12:05:38

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1 Q. Is Facebook intending to take snapshots 12:05:42  
2 now on a monthly basis going forward?

3 MR. FALCONER: Objection. Beyond the  
4 scope of the notice.

5 THE DEPONENT: I don't know. 12:05:54

6 MS. WEAVER: I think, Russ, we'd like to  
7 know what Facebook's intentions are with ongoing  
8 preservation, and I think that's within the scope  
9 of the notice.

10 But we can talk about it later. 12:06:09

11 Q. (By Ms. Weaver) Okay. So returning back  
12 again to Exhibit 385.

13 Do you see where it defines "relevant  
14 information" in this document?

15 A. Yes. 12:06:35

16 Q. And it defines relevant information as  
17 "ESI, hard copy documents, and/or other tangible  
18 materials that are identified as being relevant to  
19 a legal matter."

20 Do you see that? 12:06:47

21 A. I do.

22 Q. And was that the type of relevant  
23 information subject to the legal holds issued in  
24 this case, beginning with the first one that was  
25 issued on March 22nd, 2018? 12:07:06

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1 A. Can you repeat the question, please. 12:07:16

2 Q. Is the definition of "relevant  
3 information" set forth in Exhibit 385 consistent  
4 with the relevant information for which Facebook  
5 applied the -- the legal hold for this case that 12:07:33  
6 was first sent on March 22nd, 2018?

7 A. I haven't reviewed the legal hold notice  
8 for this case in preparation for my deposition.  
9 But I can say that all legal hold notices sent by  
10 the E-discovery team for whatever matter instructs 12:08:03  
11 the custodians to preserve and not delete any  
12 information relevant to a matter.

13 Q. Why haven't you reviewed the legal hold  
14 notice sent in this matter?

15 MR. FALCONER: So I'm going to just 12:08:26  
16 caution Mr. Duffey not to reveal contents of any  
17 conversations you had with counsel about that, and  
18 so if all you know is what you learned from  
19 counsel, you should refuse to answer the question.  
20 If there's anything else you know that's not 12:08:41  
21 privileged, you can share that.

22 THE DEPONENT: I can't answer that  
23 question.

24 Q. (By Ms. Weaver) Okay. And looking at  
25 Exhibit 386, you wrote that there were six 12:08:52

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1 different versions of the legal hold notice sent 12:08:55  
2 relating to this action; is that correct?

3 A. Correct.

4 Q. And when you say "Cambridge Analytica  
5 legal hold," that means this case; is that right? 12:09:08

6 A. It means this case, the multi-district  
7 litigation, but also means the various state AG  
8 matters, the -- you know, proceeding FTC  
9 investigation. It's a, you know, overarching legal  
10 hold related to Cambridge Analytica, and so... 12:09:36

11 Q. When you say "related to  
12 Cambridge Analytica," what's the subject matter of  
13 the legal hold notice?

14 MR. FALCONER: So, Mr. Duffey, I will  
15 again just caution you not to reveal anything about 12:09:59  
16 the language or the contents of the legal hold  
17 notice to the extent that you remember it from your  
18 work outside the context of preparing for your  
19 deposition. But within that framework, you can  
20 answer it the best you can. 12:10:13

21 THE DEPONENT: As -- as I stated, I  
22 haven't reviewed the notice in preparation for the  
23 deposition, but in general, our legal hold notices  
24 provide a summary of the matter and then provide a,  
25 you know, listing of relevant topics associated 12:10:38

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1 with that particular matter. And so that's -- 12:10:44  
2 that's sort of the general construct of our -- of  
3 our legal hold notices.

4 Q. (By Ms. Weaver) And do you know if the  
5 subject matter described in the legal hold notices 12:11:07  
6 included, for example, a request to preserve ESI  
7 and relevant information relating to the app  
8 developer investigation?

9 MR. FALCONER: So I'm going to instruct  
10 Mr. Duffey not to answer any question on privilege 12:11:22  
11 grounds that relates to the -- the contents of the  
12 hold notice. The notice itself is privileged and  
13 work product communication, so on that basis I'm  
14 going to instruct him not to answer that question.

15 MS. WEAVER: Okay. And this legal hold 12:11:36  
16 notice was sent to 469 people who work at Facebook,  
17 and Facebook's position is that it's a privileged  
18 document; is that right?

19 MR. FALCONER: Yes, and work product as  
20 well. 12:11:49

21 MS. WEAVER: And Facebook understands  
22 that if Facebook asserts privilege over this  
23 document and prevents me from conducting inquiries  
24 into it, it may not raise it as a shield, correct?

25 MR. FALCONER: You're -- I'm happy to 12:12:01

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1 have you ask questions about what -- 12:12:03

2 SPECIAL MASTER GARRIE: Counsel --

3 Counsel.

4 MR. FALCONER: Yeah.

5 SPECIAL MASTER GARRIE: This is Special 12:12:08

6 Master Garrie. We've noted the objection for the

7 record. We're not going to discuss or -- or rule

8 or have any conversations on the objections. It

9 was noted, he instructed the witness accordingly,

10 and we will move forward and discuss this once the 12:12:20

11 deposition is over, if necessary, and pursuant to

12 the prior conversations we've had.

13 Unless there's a particular issue you're

14 seeking clarification on, Counsel Weaver.

15 MS. WEAVER: That's fine. I'm just 12:12:44

16 defining the position.

17 SPECIAL MASTER GARRIE: The issue is

18 asserted.

19 Counsel Falconer, would you like to

20 respond, since she did seek the clarification, and 12:12:48

21 then we will curb our enthusiasm and limit any

22 further comments.

23 MR. FALCONER: Yeah, like I said, I'm

24 happy to have the witness about the actions the

25 employees were instructed to take and describe the 12:13:01

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1 hold notice at a general level, but in a way that 12:13:02  
2 doesn't reveal the contents of the notice itself,  
3 which is the subject of the privilege and work  
4 product.

5 SPECIAL MASTER GARRIE: Okay. Noted for 12:13:12  
6 the record.

7 Counsel Weaver, we note your point for  
8 the record.

9 Now we will proceed forward accordingly.

10 MS. WEAVER: Excellent. 12:13:22

11 Q. (By Ms. Weaver) Mr. Duffey, looking at  
12 Exhibit 386 again, on the second page ending with  
13 Bates number -3257. And I'm looking at your  
14 description of the various legal holds that were  
15 issued related to this action. And -- 12:13:35

16 A. Okay.

17 Q. Okay. And you referred to a fifth hold  
18 issued on June 16th, 2020.

19 Do you see that?

20 A. I do. 12:13:50

21 Q. And it says "[REDACTED]".

22 Do you see that, [REDACTED]?

23 A. Yes.

24 Q. So prior to June 16th, 2020, was there a

25 [REDACTED] on the relevant information that 12:14:04

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1 custodians were instructed to preserve? 12:14:11

2 A. I don't recall if there [REDACTED]  
3 prior or not.

4 Q. How would I find out?

5 A. The E-discovery team could -- could get 12:14:38  
6 that information through the Legal Hold Pro  
7 software that we use.

8 Q. And then the bullet point below says  
9 "added example of a data source that falls within  
10 the hold." 12:15:00

11 Do you see that?

12 A. Yes.

13 Q. Do you know what that example is?

14 MR. FALCONER: So again --

15 THE DEPONENT: I don't -- 12:15:11

16 MR. FALCONER: -- instruct Mr. Duffey not  
17 to answer that question. If that was -- I  
18 didn't -- didn't hear what he said, but if he got  
19 an answer out, I'd like to move to strike it.

20 Again, I don't -- just to reiterate, I 12:15:19  
21 don't want any testimony about the actual contents  
22 of the language of the hold notice itself.

23 MS. WEAVER: So he can testify about his  
24 notes that are a partial description, but I can't  
25 ask any follow-up questions? 12:15:34

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1 MR. FALCONER: I mean... 12:15:39

2 SPECIAL MASTER GARRIE: Is that a  
3 rhetorical question, Counsel Weaver?

4 MS. WEAVER: Well, I'm just clarifying  
5 his position. 12:15:50

6 SPECIAL MASTER GARRIE: He objected and  
7 instructed the witness not to speak to anything  
8 that may -- that he constituted attorney-client  
9 privilege or the substance of the -- the actual  
10 substance of the notice. 12:16:01

11 Is that not correct, Counsel Falconer?

12 MR. FALCONER: Yeah, that's correct.

13 SPECIAL MASTER GARRIE: And he has  
14 instructed the witness accordingly. So...

15 Q. (By Ms. Weaver) Do you see where it 12:16:13  
16 says, Mr. Duffey, "suspend auto deletion routine"?

17 A. Yes.

18 Q. Do you know if prior to June 16th, 2020,  
19 auto deletion routines were suspended with regard  
20 to litigation holds issued relating to this matter? 12:16:30

21 A. There are -- there are only a couple data  
22 sources that -- that I am aware of that have a  
23 retention schedule.

24 So I'm not sure I -- I understand -- I  
25 understand the question. 12:17:12

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1 Q. I'm just asking if prior to June 16th, 12:17:17  
2 2020, there were auto deletion routines that were  
3 not suspended with regard to preserving ESI related  
4 to this matter that were then suspended in -- on  
5 June 16th, 2020. 12:17:34

6 A. I'm not aware of any.

7 Q. What auto deletion routine did you refer  
8 to when you wrote that bullet point?

9 MR. FALCONER: Objection. Form.

10 THE DEPONENT: I believe that that is in 12:18:19  
11 reference to the use of ephemeral messaging.

12 Q. (By Ms. Weaver) And what is ephemeral  
13 messaging?

14 A. Ephemeral messaging is a -- a way for  
15 which a -- a user of a communications app, like 12:18:47  
16 WhatsApp, for instance, could set a auto deletion  
17 schedule on their messages.

18 Q. And do you know if any of the 392  
19 custodians identified to preserve ESI in connection  
20 with this litigation used ephemeral messaging? 12:19:20

21 MR. FALCONER: Objection. Beyond the  
22 scope.

23 THE DEPONENT: I -- I can think of one  
24 custodian that -- that -- that may have been using  
25 ephemeral messaging at the time this notice went 12:20:10

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1 out. 12:20:14

2 Q. (By Ms. Weaver) Who was that?

3 MR. FALCONER: Same objection.

4 THE DEPONENT: I believe Mark Zuckerberg

5 may have been using ephemeral messaging. 12:20:31

6 Q. (By Ms. Weaver) And what's the basis for  
7 that belief?

8 MR. FALCONER: Same objection.

9 And, again, Mr. Duffey, if -- caution you  
10 again, as I have before, any privileged 12:20:49  
11 communications or privileged information you have  
12 on that shouldn't form part of your answer.

13 THE DEPONENT: I don't think I can answer  
14 that question.

15 Q. (By Ms. Weaver) Do you know if any other 12:21:14  
16 Facebook executive used ephemeral messaging during  
17 the pendency of this litigation?

18 MR. FALCONER: Objection. Beyond the  
19 scope.

20 THE DEPONENT: I'm -- I'm not sure I 12:21:34  
21 understand the question.

22 Q. (By Ms. Weaver) Did Sheryl Sandberg use  
23 ephemeral messaging during the pendency of this  
24 litigation?

25 MR. FALCONER: Objection. Beyond the 12:21:42

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1 scope. 12:21:42

2 And, again, my same instruction as  
3 before. You know, privileged information or  
4 knowledge of a privilege communication, that  
5 shouldn't form a part of your answer. 12:21:53

6 THE DEPONENT: I -- I think the -- part  
7 of the reason why I'm struggling with the question  
8 is just -- you're naming employees of the company,  
9 and I need to know whether or not they are on legal  
10 hold for the Cambridge Analytica multi-district 12:22:09  
11 litigation.

12 Q. (By Ms. Weaver) And do you have a list  
13 or does someone have a list -- well, strike that.

14 Does Facebook have a list of who received  
15 the legal hold notifications that you discuss in 12:22:23  
16 Exhibit 386?

17 A. A list could be generated from -- from  
18 our legal hold tool.

19 Q. And you could identify from that list  
20 whether or not any of those individuals used 12:22:41  
21 ephemeral messaging; is that correct?

22 MR. FALCONER: Objection. Beyond the  
23 scope.

24 THE DEPONENT: No, I couldn't identify  
25 from the list whether or not the custodians were 12:22:56

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1 using or are using ephemeral messaging, no. 12:22:59

2 Q. (By Ms. Weaver) Did Facebook take steps  
3 to determine whether or not custodians subject to  
4 the legal hold in this case were using ephemeral  
5 messaging? 12:23:15

6 A. Yes, that -- those questions are asked as  
7 part of custodian interviews. We instruct our  
8 custodians to not delete any information or data  
9 relevant to a legal matter if -- we also instruct  
10 the custodians to notify the legal team and 12:23:58  
11 E-discovery if they are aware of information,  
12 documents, ESI are being deleted or have been  
13 deleted.

14 So those -- those are samples of steps  
15 that -- that we undertake as a -- a E-discovery 12:24:25  
16 team.

17 Q. What ephemeral messaging platform was  
18 Mr. Zuckerberg using?

19 MR. FALCONER: Objection. Beyond the  
20 scope. 12:24:38

21 THE DEPONENT: The only one that I can  
22 think of is -- is WhatsApp.

23 Q. (By Ms. Weaver) And was any -- well,  
24 strike that.

25 And looking at back at Exhibit 385, it 12:25:06

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1 defines "ephemeral messaging," doesn't it? 12:25:11

2 A. Yes.

3 Q. And what does the policy say about  
4 ephemeral messaging?

5 A. It says "once receiving a legal hold, 12:25:59  
6 custodians should not use ephemeral messaging to  
7 communicate relevant information and preserve --  
8 should preserve any existing relevant information  
9 that would otherwise auto delete or disappear after  
10 a short period of time." 12:26:14

11 I -- I am aware of our electronic  
12 communications policy where there are exceptions to  
13 the use of ephemeral messaging.

14 Q. And what are these --

15 A. But that's -- 12:26:38

16 I'd have to -- I'd have to have the  
17 document in front of me.

18 Q. Okay.

19 (Exhibit 387 was marked for  
20 identification by the court reporter and is 12:26:57  
21 attached hereto.)

22 MS. WEAVER: Let's mark tab 48 as  
23 Exhibit 387.

24 Q. (By Ms. Weaver) And while we're  
25 waiting -- well, let me -- 12:27:54

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1 exceptions. 12:31:19

2 Q. And what do you understand the exceptions  
3 to be?

4 A. That -- that legal can preauthorize these  
5 exceptions to protect, for instance, highly 12:31:35  
6 sensitive information related to investigations or  
7 security and to protect the safety or security of  
8 an individual, data, and/or facilities.

9 Q. Is it your understanding that  
10 Mark Zuckerberg was exempted from this policy in 12:31:55  
11 general?

12 MR. FALCONER: I'm going to object to  
13 that question as beyond the scope of the notice.

14 And also, Mr. Duffey, remind you not to  
15 reveal any privileged information or privileged 12:32:06  
16 communication that would answer that question.

17 THE DEPONENT: I don't know the answer to  
18 the question.

19 Q. (By Ms. Weaver) When did this policy  
20 take effect for the first time? 12:32:20

21 A. Which policy are we referring to?

22 Q. The policy regarding ephemeral messaging.

23 A. Are -- are we talking about the  
24 electronic communications policy?

25 Q. Sure. We can say that. Let's start with 12:32:48

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1 that. 12:32:49

2 At what point in time did the electronic  
3 communications policy first take effect?

4 A. I believe we've had an electronic  
5 communications policy prior to the pendency of this 12:33:13  
6 case. I don't know when -- when -- when it was  
7 first created, though.

8 Q. Was it a written policy?

9 A. I believe so, yes.

10 Q. And have you seen it in preparation for 12:33:35  
11 your deposition today?

12 A. I don't understand the question.

13 Q. Have you reviewed a written policy --  
14 strike that.

15 You've testified that there was a -- an 12:33:57  
16 electronic communications policy prior to the  
17 pendency of this case, correct?

18 A. That is my understanding, yes.

19 Q. Have you ever reviewed it in writing?

20 A. I don't know that I reviewed it in 12:34:20  
21 preparation for this deposition, but I am fairly  
22 certain that I had reviewed it as part of the,  
23 you know, normal course of business, yes.

24 Q. And what was the substance of that  
25 policy? 12:34:38

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1 MR. FALCONER: Objection. Beyond the 12:34:43  
2 scope of the notice.

3 But go ahead, Mike.

4 THE DEPONENT: I don't recall beyond the  
5 substance being related to, you know, guidance 12:34:56  
6 and -- and policies surrounding electronic  
7 communications.

8 Q. (By Ms. Weaver) Did that policy  
9 specifically address ephemeral messaging?

10 MR. FALCONER: Same objection. 12:35:09

11 THE DEPONENT: I don't know.

12 Q. (By Ms. Weaver) It would be possible to  
13 find that policy and produce it in this action,  
14 wouldn't it?

15 MR. FALCONER: Objection. Beyond the 12:35:21  
16 scope of the notice.

17 THE DEPONENT: Yes, I believe so.

18 Q. (By Ms. Weaver) Are you aware of any  
19 policy specifically addressing ephemeral messaging  
20 prior to November 16th, 2021? 12:35:40

21 A. I'm not sure.

22 Q. Were Mark Zuckerberg's ephemeral messages  
23 subject to litigation hold in this case?

24 A. I don't know.

25 Q. Who would know? 12:37:10

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A. The usual way we would identify any relevant ESI would be through custodian interview.

7	A. Yes.
---	---------

11 MR. FALCONER: So, again, I'm going to  
12 instruct the witness not to any answer question for  
13 privilege and work product reason about the  
14 language of the hold notice.

16 Q. (By Ms. Weaver) Were WhatsApp messages  
17 preserved in connection with this litigation from  
18 March 2018 to today?

22 Q. Do you see a reference in Exhibit 285 or  
23 385 to Facebook messages as well?

25	Q. Is it up to the custodian to delete	12:39:00
----	--	----------

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1 Facebook messages? 12:39:02

2 MR. FALCONER: Objection. Form.

3 THE DEPONENT: I don't understand the  
4 question.

5 Q. (By Ms. Weaver) Well, you said it is up 12:39:13  
6 to the custodian to preserve relevant information,  
7 including WhatsApp messages, correct?

8 A. Yes.

9 Q. Is it up to the custodian to preserve  
10 Facebook Messenger messages? 12:39:26

11 A. Yes. However, employee-to-employee  
12 Facebook Messenger messages were -- were captured  
13 using our -- our email and work chat archive up to,  
14 I believe, March 2019.

15 Q. And does that include an archive for 12:40:14  
16 Mr. Zuckerberg?

17 A. I believe --

18 MR. FALCONER: That's beyond the scope of  
19 the notice.

20 But go ahead. 12:40:31

21 THE DEPONENT: I believe -- I believe  
22 Mark has been on legal hold for this matter since  
23 the original legal hold notice went out.

24 Q. (By Ms. Weaver) He was named as a  
25 defendant initially, correct? 12:40:40

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1 A. I don't know. 12:40:44

2 Q. Are you aware that at a certain point in  
3 time, Mr. Zuckerberg had the ability to delete  
4 messages in his Facebook Messenger box?

5 MR. FALCONER: Objection. Beyond the 12:41:07  
6 scope of the notice.

7 THE DEPONENT: I don't understand the  
8 question.

9 Q. (By Ms. Weaver) Are you aware if at any  
10 point in time following the filing of this 12:41:19  
11 lawsuit -- well, strike that.

12 Are you aware of whether or not Facebook  
13 executives had the ability to delete Facebook  
14 messages contained within their message in-box?

15 MR. FALCONER: Objection. Beyond the 12:41:43  
16 scope of the notice.

17 THE DEPONENT: Employees can delete their  
18 Facebook Messenger messages.

19 Q. (By Ms. Weaver) Are you aware of whether  
20 or not at any point in time Mr. Zuckerberg had the 12:42:11  
21 power to delete his messages in other Facebook  
22 users' in-boxes?

23 MR. FALCONER: Objection. Beyond the  
24 scope of the notice.

25 THE DEPONENT: No. 12:42:29

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1 Q. (By Ms. Weaver) Are you aware of whether 12:42:29  
2 at any point in time Facebook users using the  
3 Download Your Information tool became aware that  
4 Facebook messages they exchanged with  
5 Mark Zuckerberg were no longer there? 12:42:42

6 MR. FALCONER: Objection. Form and  
7 beyond the scope of the notice.

8 THE DEPONENT: I -- I -- I don't -- I  
9 didn't follow that question.

10 Q. (By Ms. Weaver) Sure. 12:42:56  
11 Are you aware of whether at any point in  
12 time Facebook users could see, using the Download  
13 Your Information tool, that Facebook messages they  
14 exchanged with Mr. Zuckerberg had been deleted?

15 MR. FALCONER: Same two objections. 12:43:13

16 THE DEPONENT: I don't know.

17 Q. (By Ms. Weaver) Do you know if  
18 Mr. Zuckerberg or someone on his behalf deleted  
19 messages from Mr. Zuckerberg in the Facebook  
20 Messenger in-box of other users? 12:43:25

21 MR. FALCONER: Same two objections.

22 THE DEPONENT: I don't know the answer to  
23 that.

24 Q. (By Ms. Weaver) Do you know who would  
25 know? 12:43:36

1 A. No. 12:43:39

2 MR. FALCONER: Same objection. Beyond

3 the scope of the notice.

4 MS. WEAVER: Okay. I think we can break

5 for lunch if you would like. 12:43:56

6 MR. FALCONER: Okay.

7 THE VIDEOGRAPHER: Okay. We're off the

8 record. It's 12:44 p.m.

9 (Recess taken.)

10 THE VIDEOGRAPHER: Okay. We're back on 01:18:05

11 the record. It's 1:18 p.m.

12 Q. (By Ms. Weaver) Mr. Duffey, did you have

13 a delightful lunch?

14 A. I did. Thank you.

15 Q. Excellent. 01:18:13

16 (Discussion off the stenographic record.)

17 Q. (By Ms. Weaver) You understand you're

18 still under oath, correct?

19 A. Yes, I do.

20 Q. Do you know whether or not any directors 01:18:33

21 or executives subject to the litigation hold in

22 this case used Wickr or HipChat or programs that

23 had self-destruction features?

24 MR. FALCONER: Objection. Form and

25 beyond the scope of the notice. 01:18:52

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1 THE DEPONENT: No, I am not. 01:18:58

2 Q. (By Ms. Weaver) And you testified that  
3 you reviewed correspondence between plaintiffs'  
4 counsel and Gibson Dunn in this case, correct?

5 A. I did. 01:19:09

6 Q. And I'll ask you to take a look at what  
7 we've marked as Exhibit 389.

8 (Exhibit 389 was marked for  
9 identification by the court reporter and is  
10 attached hereto.) 01:19:20

11 MS. WEAVER: And while it's pulling up  
12 and the record, this is a letter dated September 6,  
13 2018, from Gibson Dunn to me and to Mr. Loeser in  
14 this case.

15 Q. (By Ms. Weaver) And let me know when 01:19:44  
16 you've had a chance to review it.

17 A. Okay. It just appeared. Let me --  
18 Okay.

19 Q. Have you seen this letter before?

20 A. I don't recall. 01:20:16

21 Q. Do you know if it was identified by  
22 Mr. Falconer in emails preparing for this -- for  
23 this deposition today?

24 A. Can you -- can you repeat the question.

25 Q. Do you know if this was one of the pieces 01:20:34

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1 of correspondence identified by Mr. Falconer as 01:20:37  
2 something you had reviewed in preparation for your  
3 deposition today?

4 A. I don't know.

5 Q. And did you review this letter? 01:20:51

6 A. I don't recall.

7 Q. I'll direct your attention to page 2 of  
8 the letter. And by way of explanation, in this  
9 letter Gibson Dunn is responding to questions  
10 interposed by plaintiffs' counsel, and in No. 6 in 01:21:13  
11 italics it has a quote from correspondence we sent  
12 to Gibson Dunn.

13 It says "Your August 17th letter states  
14 that 'counsel is unaware of the use of Wickr or  
15 HipChat or other similar programs that include 01:21:29  
16 self-destruction features by any employees who were  
17 issued the litigation hold notices.'"

18 Does that statement apply to directors  
19 and executives as well?

20 Do you see that? 01:21:42

21 A. Yes.

22 Q. And then counsel responded "Yes. That  
23 statement applies to directors and executives to  
24 whom the litigation notice were issued."

25 Do you see that? 01:21:55

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1	A. Yes.	01:21:56
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A. As of the date of this letter on  
September 6, 2018, I have -- I have no reason to  
believe that it's not true.

01:22:17

9	MR. FALCONER: Objection. Beyond the	
10	scope.	01:22:31

12 MS. WEAVER: Okay.

15 We can do it outside of the deposition. 01:22:42

19 MS. WEAVER: We'll mark as tab 77 the  
20 next exhibit. That will be Exhibit 390. 01:22:47

22 Are you familiar with an archiving system

23 called Proofpoint?

25	Q. What is that?	01:23:31
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1 A. Proofpoint is our email and work chat 01:23:38

2 archiving tool.

3 Q. And how does it function?

4 MR. FALCONER: Objection. Form.

5 THE DEPONENT: On a daily basis, emails 01:24:14

6 and work chats are stored within Proofpoint for a  
7 retention period that includes legal holds.

8 Q. (By Ms. Weaver) Okay.

9 And do you have Exhibit 390 now?

10 A. I do. 01:24:46

11 MS. WEAVER: And I'll state for the  
12 record that this is a letter dated December 9,  
13 2019, from Gibson, Dunn & Crutcher, again to myself  
14 and Mr. Loeser in this case.

15 Q. (By Ms. Weaver) Have you seen this 01:25:00  
16 document before?

17 A. It looks familiar. I'm -- I'm not  
18 100 percent sure.

19 Q. Do you understand it to be one of the  
20 letters that Mr. Falconer indicated you would be 01:25:38  
21 prepared to discuss today?

22 A. I -- I'm not sure.

23 Q. Okay. I'll direct your attention to page  
24 5 at No. 11.

25 A. Okay. 01:25:56

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1 Q. Okay. And do you see in paragraph 11 01:25:58  
2 where it says "As we have explained previously,  
3 Facebook is preserving Exchange, Facebook  
4 Messenger, and Facebook Workplace communications  
5 (which are automatically archived in Proofpoint)." 01:26:16

6 And then "Facebook is preserving  
7 additional data stored through online sources,  
8 including Quip, Dropbox, Workplace Groups, internal  
9 web pages, company Wikis, and O365. Facebook is  
10 also preserving identified data stored on specific 01:26:36  
11 individual devices, including laptops, desktops,  
12 mobile devices, and tablets."

13 Do you see that?

14 A. Yes.

15 Q. Were WeChat messages achieved in 01:26:47  
16 Proofpoint?

17 A. WeChat messages are not archived in  
18 Proofpoint.

19 Q. Are WhatsApp messages archive in  
20 Proofpoint? 01:27:12

21 A. No.

22 Q. Are they archived anywhere?

23 A. WhatsApp messages are stored on -- on a  
24 user's phone. It is up to the custodian to  
25 preserve any -- any messages that would be relevant 01:27:34

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1 to the legal hold notice issued to the custodians. 01:27:45

2 Q. Okay.

3 I'll ask you to turn back to 3 --

4 Exhibit 385. And I'm looking at the definition of

5 "relevant information" again. 01:28:13

6 A. Okay.

7 Q. And specifically, there's that long list

8 of items where it begins with "email, Workplace

9 Chats and Groups."

10 Do you see that? 01:28:22

11 A. Yes.

12 Q. I'd like to just go through and give

13 those kinds of ESI, if you don't mind.

14 So email, we discussed. That is archived

15 in Proofpoint; is that right? 01:28:32

16 A. It is, correct.

17 Q. Workplace Chats and Groups, is that

18 archived in Proofpoint?

19 A. Workplace Chats are -- are archived in

20 Proofpoint. Groups are not. 01:28:47

21 Q. And what are Groups?

22 A. I use that sort of Groups example for

23 Facebook. Similarly Workplace, which is a Meta

24 product used within the company that is very

25 similar to Facebook in that you can join groups 01:29:14

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1 relevant to your work or interests and -- and 01:29:23  
2 that's what Groups are in reference to -- in this  
3 definition of "relevant information."

4 Q. Were Groups searched for and preserved in  
5 the collection of ESI related to this litigation? 01:29:47

6 MR. FALCONER: Objection. Form.

7 THE DEPONENT: Yes. When a custodian  
8 identifies a Workplace Group or Workplace Groups  
9 relevant to a matter, the E-discovery team will  
10 take a snapshot of that Workplace Group and 01:30:17  
11 preserve it.

12 Otherwise, Workplace Groups are not  
13 subject to a retention period. Posts within a  
14 Workplace Group remain unless deleted by a user who  
15 has access to that point. 01:30:49

16 Q. (By Ms. Weaver) And why aren't they  
17 subject to retention?

18 A. Because --

19 MR. FALCONER: Objection. Form.

20 But go ahead. 01:30:59

21 THE DEPONENT: There is no retention  
22 period. They will live in perpetuity unless a  
23 person who posts within that group deletes  
24 information within that Workplace Group.

25 Q. (By Ms. Weaver) Okay. Were OneDrive, 01:31:25

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1 Dropbox, Axe, SharePoint, and Google Drive all 01:31:32

2 subject to litigation hold in this case?

3 A. They are data sources that company

4 personnel uses. These are cloud-based third-party

5 data sources that are, again, not subject to a 01:32:05

6 retention period, disposition period. Those

7 documents and within those cloud sources remain

8 accessible unless -- unless deleted from -- from

9 those data sources.

10 Q. And the same is true for Quips? 01:32:38

11 A. That's correct.

12 I do want to say one clarifying thing:

13 That all -- all custodians are, you know, told to

14 preserve any relevant information stored in any

15 data source, including all of these cloud-based 01:33:03

16 sources. The E-discovery team has the ability to

17 collect deleted items as well.

18 Q. And how do they collect deleted items?

19 A. They would be collected through the admin

20 tool for these particular cloud sources. 01:33:29

21 Q. And do you mean each cloud source has its

22 own admin tool?

23 A. I believe that's correct.

24 Q. Were any -- was any deleted ESI collected

25 in this case? 01:33:48

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1 MR. FALCONER: Objection. Beyond the 01:33:52  
2 scope of the notice.  
3 Go ahead, Mike.  
4 THE DEPONENT: I'm not aware of any  
5 instance where a custodian indicated that a 01:34:09  
6 relevant ESI would have been deleted. So I'm not  
7 sure I can answer that question.  
8 Q. (By Ms. Weaver) And is the reference  
9 here to Facebook messages the same as Facebook  
10 Messenger? 01:34:41  
11 A. Yeah, I -- I believe it's in reference to  
12 Facebook Messenger messages.  
13 Q. And you see a reference here to hard copy  
14 files; is that right?  
15 A. Yes. 01:34:59  
16 Q. What does that mean?  
17 A. Paper files, written notes, not  
18 electronic files.  
19 Q. Were hard copy files preserved and  
20 searched for production in this litigation? 01:35:19  
21 A. Yes. Our custodians are instructed to  
22 preserve all relevant information, and that  
23 includes hard copy files. If a custodian  
24 identifies that they have hard copy files relevant,  
25 then the E-discovery team would collect and scan 01:35:46

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1 and preserve those relevant hard copy files. 01:35:51

2 Q. Do you know if Facebook has preserved any  
3 notebooks or notes in hard copy files in response  
4 to this litigation?

5 A. Can you repeat the question. 01:36:17

6 Q. Do you know if Facebook preserved any  
7 notebooks or notes in hard copy files in connection  
8 with this litigation?

9 A. I believe so.

10 Q. And what -- what do you recall about 01:36:34  
11 that?

12 A. As I mentioned, through the custodian  
13 interview process, if a custodian identifies hard  
14 copy files as something they have and is relevant  
15 to a matter, the E-discovery team would collect and 01:36:58  
16 scan those materials.

17 Q. And I'm asking, I guess, specifically,  
18 are you aware of any specific hard copy documents  
19 that you know were preserved for this case?

20 A. I believe that we have collected hard 01:37:28  
21 copy files. I couldn't tell you the names of the  
22 custodians or what the content of those hard copy  
23 files were, but I do recall that that was -- that  
24 is -- that has been a data -- data source that we  
25 have collected from. 01:37:50

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1 Q. Are you aware of whether or not there was 01:37:53  
2 a search in 2018 for notebooks maintained by  
3 Mr. Zuckerberg?

4 A. I don't know that.

5 Q. Are you aware of it at all? 01:38:07

6 A. No.

7 Q. Turning back to Exhibit 390.

8 A. Okay.

9 Q. Turning to page 7 at No. 7, do you see it  
10 says "the relevant subject matter identified in the 01:39:03  
11 litigation holds and any updates thereto"?

12 Do you see that?

13 A. I do.

14 Q. And then do you see the paragraph that  
15 says "Without waiving Facebook's attorney-client 01:39:13  
16 privilege, Facebook responds that the litigation  
17 hold notice requires the preservation of documents  
18 potentially relevant to the litigation and  
19 regulatory proceedings stemming from the  
20 Cambridge Analytica events, including Aleksandr 01:39:28  
21 Kogan's use of the Facebook Platform and  
22 collaboration with Cambridge Analytica; access to  
23 and potential misuse of Facebook user data by  
24 Cambridge Analytica and other third-party apps;  
25 Facebook's device integration partnerships; 01:39:47

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1 agreements between Facebook and third parties 01:39:51  
2 regarding access to user data; and internal  
3 investigations or audits into alleged misuse of  
4 user data by third parties."

5 Do you see that? 01:40:04

6 A. Yes.

7 Q. Do you know if Facebook updated the  
8 relevant subject matter and litigation holds to  
9 include, for example, discussions of exchange of  
10 data with data brokers? 01:40:15

11 MR. FALCONER: So, again, I'm going to  
12 instruct Mr. Duffey not to any question about the  
13 language that was included in any version of the  
14 legal hold on privilege and work product basis.

15 MS. WEAVER: And to clarify, even though 01:40:28  
16 he wrote a letter in 2019 defining what was in the  
17 litigation hold?

18 SPECIAL MASTER GARRIE: Noted for the  
19 record. We will move forward.

20 Counsel [sic] Duffey received instruction 01:40:44  
21 from counsel. Please advise if you want to respond  
22 accordingly.

23 MR. FALCONER: So, Mr. Duffey, my  
24 instruction to you is not to answer that question  
25 on work product and privilege grounds. 01:40:58

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1 THE DEPONENT: I'll take counsel's 01:41:02

2 instructions.

3 Q. (By Ms. Weaver) And going back to  
4 Exhibit 386.

5 Do you see -- I'm looking back at the 01:41:32

6 sixth issued litigation hold sent on September 3,  
7 2021. And you have a bullet point there that says  
8 "reference ephemeral messaging (do not use it or  
9 take steps to preserve)."

10 Do you see that? 01:41:45

11 A. Yes.

12 Q. Do you know whether WhatsApp added  
13 ephemeral messages as an optional feature in  
14 November of 2020?

15 MR. FALCONER: Objection. Beyond the 01:42:00  
16 scope of the notice.

17 THE DEPONENT: I do not know that.

18 Q. (By Ms. Weaver) Do you know if anyone  
19 subject to the litigation hold in this case used  
20 ephemeral messaging on WhatsApp during the pendency 01:42:10  
21 of this case?

22 MR. FALCONER: Objection. Beyond the  
23 scope.

24 THE DEPONENT: Other than my earlier  
25 testimony, I'm -- I'm not aware of any custodians 01:42:38

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1 using ephemeral messaging. 01:42:43

2 Q. (By Ms. Weaver) Okay.

3 Did Facebook send litigation holds or  
4 preservation letters to any third parties relating  
5 to this case? 01:42:55

6 A. I don't know.

7 Q. Do you know if Facebook sent preservation  
8 letters to FTI or Stroz?

9 MR. FALCONER: I'm going to object to  
10 that as beyond the scope of the notice. 01:43:24

11 THE DEPONENT: Can you -- can you repeat  
12 the question.

13 Q. (By Ms. Weaver) Yes. No problem.

14 Did Facebook send preservation letters to  
15 FTI Consulting or Stroz? 01:43:39

16 MR. FALCONER: Same objection.

17 THE DEPONENT: Yes, I believe so. The --  
18 the individuals from either FTI or Stroz who had  
19 an -- who had an FB.com email address received  
20 litigation holds, preservation notices. 01:44:27

21 Q. (By Ms. Weaver) And did anyone from PwC  
22 or EY also receive preservation notices in  
23 connection with this litigation?

24 A. I don't know.

25 Q. Do you know if members of the ADI 01:44:56

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custodian list created by Facebook received the  
litigation hold in this case?

MR. FALCONER: Objection. Form.

But you can go ahead, Mike.

THE DEPONENT: Do you mind repeating the question, please.

Q. (By Ms. Weaver) Are you aware of a group of custodians being identified by Facebook as "EDI custodians"?

MR. FALCONER: Objection. Form.

THE DEPONENT: I know -- I know there is a legal hold notice called "the app developer investigation."

Q. (By Ms. Weaver) And do you know when the legal hold notice was sent to EDI custodians in this case?

MR. FALCONER: Objection. Form.

But go ahead, Mike.

THE DEPONENT: I -- I -- I couldn't answer when EDI custodians would have received the Cambridge Analytica litigation hold notice.

Q. (By Ms. Weaver) Thank you. I apologize for interrupting.

Do you know whether they received the first litigation hold letter, or was it later in

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1 time? 01:46:20

2 A. I don't know.

3 Q. Do you know who would know?

4 A. We have a reporting mechanism within the

5 Legal Hold Pro tool that would show -- generate a 01:46:37

6 list of legal hold custodians and when they first

7 received the preservation notice.

8 MS. WEAVER: Okay. Thank you. Let's --

9 We're going to mark as Exhibit 391.

10 (Exhibit 391 was marked for 01:47:05

11 identification by the court reporter and is

12 attached hereto.)

13 MS. WEAVER: This will be tab 32,

14 Mr. Samra. This is a document bearing Bates

15 numbers ADVANCE-META -504 through -509. 01:47:11

16 Q. (By Ms. Weaver) And when it's up, if you

17 could just tell me what it is, that would be

18 helpful.

19 A. It still hasn't arrived.

20 Q. I have -- 01:48:29

21 A. I just got it.

22 Is it Exhibit 391?

23 Q. Exactly, yes.

24 A. This is US privacy program records

25 management policy. 01:48:40

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1 Q. And when did it first take effect? 01:48:42

2 A. April 20, 2021.

3 Q. And was there such a policy prior to that

4 time?

5 A. I'm not aware of a prior version of the 01:49:16

6 US privacy program records management policy.

7 Q. And was there an informal policy that

8 addressed the issues covered in the US privacy

9 program records management policy prior to the time

10 that -- when Exhibit 32 was implemented? 01:49:32

11 MR. FALCONER: Objection. Beyond the

12 scope.

13 THE DEPONENT: I'm aware of the -- the

14 existence of a US privacy program prior to this

15 policy going into effect, but I'm not aware of -- 01:49:52

16 of a written formal policy that existed prior to

17 this.

18 (Exhibit 392 was marked for

19 identification by the court reporter and is

20 attached hereto.) 01:50:00

21 MS. WEAVER: And now we're marking

22 Exhibit 392, which for the record is

23 ADVANCE-META -516 through -531.

24 THE DEPONENT: I have it now.

25 Q. (By Ms. Weaver) And what is Exhibit 392? 01:50:40

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1 A. Exhibit 392 is the US privacy program 01:50:45

2 records retention schedule.

3 Q. And when did it first take effect?

4 A. April 20th, 2021.

5 Q. And prior to April 20th, 2021, was there 01:51:13

6 a records retention schedule similar to the one

7 reflected in Exhibit 392?

8 MR. FALCONER: Objection. Form.

9 THE DEPONENT: I don't believe so.

10 Q. (By Ms. Weaver) And so do you see in the 01:51:42

11 first paragraph it says, in the second sentence,

12 "The records that the US privacy program must

13 retain are audit records and reports, consumer

14 inquiry and response records, contracts/agreements

15 and third-party assessment records, data subject 01:52:01

16 requests, government relations and policy records,

17 incident and investigation records (permanent),

18 incident and investigation records (temporary),

19 policies and procedures, privacy program operations

20 records, privacy review and decision records, risk 01:52:20

21 assessments and remediation and response records,

22 training records, user consent records, and user

23 privacy communications and statements external"?

24 Do you see that?

25 A. I do. 01:52:37

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1 Q. And so this paragraph reflects that as of 01:52:37  
2 April 20th, 2021, Facebook required that the  
3 company retain those records that I just read into  
4 the record, correct?

5 A. Yes, under the retention schedule that is 01:53:05  
6 laid out throughout the document.

7 Q. So prior to the time that Exhibit 392  
8 took effect, what was the retention schedule for  
9 consumer inquiry and response records?

10 MR. FALCONER: Objection. Form. 01:53:24

11 THE DEPONENT: I'm not aware of -- of a,  
12 you know, similar retention schedule that preceded  
13 this document, so I -- I don't know the answer to  
14 the question.

15 Q. (By Ms. Weaver) Do you see a reference 01:54:03  
16 to "user consent records"?

17 A. I do.

18 Q. What -- what does that mean?

19 A. "User consent records are records related  
20 to user consents, preferences, and settings 01:54:48  
21 specific to legal, regulatory obligations, which  
22 constitutes user consent, preference, and setting  
23 records responsive to the FTC order."

24 Q. And are you reading from the record  
25 series description at page 529? 01:55:06

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1 A. I am. 01:55:11

2 Q. Prior to the time that Exhibit 392 took  
3 effect in April 20th, 2021, did Facebook preserve  
4 those records that you just described?

5 MR. FALCONER: Objection. Form. 01:55:24

6 THE DEPONENT: If they were the subject  
7 of legal or regulatory obligations or the subject  
8 of legal hold, they would have been preserved. I'm  
9 not aware of a -- a prior retention disposition  
10 schedule for these types of records. 01:56:02

11 Q. (By Ms. Weaver) And do you know for this  
12 case whether these records were preserved?

13 MR. FALCONER: Objection. Form.

14 But go ahead, Mike.

15 THE DEPONENT: I don't know. 01:56:26

16 Q. (By Ms. Weaver) Who would know?

17 A. I think that would be like an -- an  
18 inquiry that would be conducted between our  
19 in-house and outside counsel and the E-discovery  
20 team and any custodians working on these types of 01:56:59  
21 records.

22 Q. And with regard to these records, where  
23 it says "user consent," does that mean every  
24 Facebook user?

25 A. I'd -- I'd want to look at the file plan 01:57:31

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1 associated with the US privacy program records 01:57:35  
2 management policy to confirm that. I don't know  
3 the answer.

4 Q. What is a file plan?

5 A. That is a spreadsheet that is part of the 01:57:58  
6 US privacy program records management policy.  
7 It's --

8 MS. WEAVER: Josh --

9 That's fine. I think we have.

10 Josh, can you mark, please, tabs 37 and 01:58:18  
11 38.

12 (Exhibit 393 was marked for  
13 identification by the court reporter and is  
14 attached hereto.)

15 (Exhibit 394 was marked for 01:58:22  
16 identification by the court reporter and is  
17 attached hereto.)

18 MS. WEAVER: These, for the record, will  
19 be Exhibits 392 and 393. Exhibit 392 bears the  
20 words "US privacy program records retention 01:58:53  
21 schedule" and bears Bates numbers ADVANCE-META -555  
22 through -568.

23 And Exhibit 393 is a spreadsheet that  
24 says "Meta US privacy program records file plan"  
25 bearing Bates number -569 to -577. 01:59:12

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1 THE DEPONENT: I'm not sure -- can we 01:59:26  
2 read that back? Because I'm not mapping to the  
3 exhibit number and the Bates numbers that you  
4 just --

5 Q. (By Ms. Weaver) Oh -- yeah, Mr. Duffey. 01:59:31  
6 I'm marking two new exhibits for you to look at.  
7 I'm sorry for being unclear. So they're going to  
8 load, and you're looking at Exhibit 391, I think,  
9 but Exhibits --

10 A. I'm sorry. I was looking -- I think you 01:59:44  
11 already marked 392 --

12 MR. FALCONER: Yeah.

13 THE DEPONENT: -- as the schedule -- as  
14 the schedule plan.

15 MS. WEAVER: I see. And it will be 393 01:59:52  
16 and 394. I apologize.

17 Q. (By Ms. Weaver) And 393, I believe, is  
18 up.

19 A. Oh, I'm loading -- it's uploading right  
20 now. 02:00:20

21 Q. And so the -- first I want to comment on  
22 what those exhibits are, and then we'll return to  
23 the question of the records relating to user  
24 consents.

25 Do you have Exhibit 393? 02:00:48

1	A. I have it, but I'm still a little	02:00:50
2	confused, because I think 392 and 393 are the same	
3	document.	

7 Well, you know what, Mr. Duffey? This is  
8 your expertise.

15	A. I see.	02:01:31
----	-----------	----------

17	A. Okay.
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19                   A.    I see it.

22                   A.     Okay.  Just a moment.

25	Q. And what is Exhibit 394?	02:02:21
----	-----------------------------	----------

3 Q. And is this the document that you were  
4 testifying you would need to seek to answer the  
5 question about what records relating to user 02:03:00  
6 consents constitute?

8 Q. And if I direct your attention to the  
9 page ending in Bates number -576 on the lower  
10 left-hand corner, do you see where it says "user 02:03:16  
11 consent records"?

13 Q. So the question is: Do these user  
14 consent records relate to every Facebook user?

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1 on an aggregate basis the number of users for whom 02:04:54  
2 each such privacy setting was in effect at any time  
3 Meta has attempted to obtain or has been required  
4 to obtain such consent in a" -- I think it says  
5 "part 2 scenario." 02:05:08  
6 Do you see that?  
7 A. I do see it.  
8 Q. Prior to the time -- well, strike that.  
9 When did Exhibits 393 and 394 take  
10 effect? 02:05:22  
11 A. I don't know when Exhibit 394 went into  
12 effect. Exhibit 393 is -- is loading now. And I  
13 believe it went into effect on April 20th -- yes,  
14 April 20th, 2021.  
15 Q. And Exhibit 394, is that an explication, 02:06:16  
16 if you will, of the kinds of documents identified  
17 in Exhibit 393?  
18 A. I don't know if I understand what that --  
19 that word is.  
20 Q. It means -- 02:06:32  
21 A. Sorry.  
22 Q. -- explanation, I guess. Right?  
23 Let me ask the question again.  
24 Is Exhibit 394 a part of Exhibit 393?  
25 A. It's -- it's -- they all -- 393 and 394 02:06:53

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1 are part -- you know, part of the US privacy 02:06:56  
2 program records management policy. I would  
3 consider them separate documents, but the file plan  
4 provides additional information including the --  
5 you know, the record class, records category, 02:07:23  
6 approved repository, and maybe -- maybe some  
7 additional columns that are not referenced in -- in  
8 the retention schedule.

9 Q. And with regard to the records described  
10 in the cell that I just read into the record about 02:07:50  
11 user consents, prior of April of 2021, did Facebook  
12 maintain such records?

13 A. I don't know.

14 Q. Did Facebook preserve the documents  
15 described in that cell for purposes of this 02:08:20  
16 litigation?

17 A. I don't know.

18 Q. Who would know?

19 A. I can't name a specific individual, but I  
20 would -- I would suggest that -- that -- going to 02:09:17  
21 somebody working on the, you know, US privacy  
22 program or somebody within the privacy team.

23 Q. And can you name anybody by name who is  
24 on that team or involved with that program?

25 A. I can't. But somebody on -- on our 02:09:54

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1 information governance team could. 02:10:02

2 Q. And who --

3 A. I would imagine.

4 Q. Sorry.

5 And who on your information governance 02:10:09

6 team by name might be able to let us know how to

7 find out if those documents relating to user

8 consents were preserved or collected prior to

9 April 21st, 2021?

10 A. Two people come to mind. One would be 02:10:32

11 Yodi, Y-O-D-I, Hailemariam, H-A-I-L-E-M-A-R-I-A-M.

12 And Daniel Proko, D-A-N-I-E-L P-R-O-K-O.

13 Q. Mr. Hailemariam is identified on Exhibit

14 386, correct?

15 A. Yes. Yodi is a woman -- 02:11:06

16 Q. I'm sorry.

17 A. -- but that's correct.

18 Q. My apologies.

19 A. No, it's fine. I just wanted to clarify.

20 Q. That's nice. 02:11:15

21 You spoke with Yodi in preparation for

22 your deposition; is that correct?

23 A. I did speak with her, yes.

24 Q. And the second person you identified, is

25 that person also listed in your notes? 02:11:27

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1 A. No. 02:11:32

2 Q. And did you speak with that person to  
3 prepare for your deposition today?

4 A. No.

5 Q. Looking a little further ahead and 02:11:46

6 turning back to Exhibit 394, there's a category of  
7 documents called "User Privacy Communications and  
8 Statements."

9 Do you see that?

10 That's at Bates number ending at -577. 02:11:56

11 A. Yes, I see it.

12 Q. And do you see in the fifth column it  
13 describes those as "records of external statements  
14 made by Meta that describe the extent to which Meta  
15 maintains and protects the privacy, security, and 02:12:25  
16 confidentiality of any covered information

17 according to the FTC order, including but not  
18 limited to any statement related to a change in any  
19 website or service controlled by Meta that relates  
20 to the privacy of such information along with all 02:12:42  
21 materials relied upon in making such" -- and then  
22 it looks like it's an incomplete sentence.

23 Do you see that?

24 A. I do.

25 Q. Do you know if prior to April 2021 02:12:54

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1 Facebook maintained these kind of records? 02:12:59

2 MR. FALCONER: Objection. Beyond the

3 scope of the notice.

4 THE DEPONENT: I -- I don't know.

5 Q. (By Ms. Weaver) Do you know who would? 02:13:42

6 A. I would -- I would start with Yodi and

7 Daniel.

8 Q. Okay. Thank you.

9 I'll ask you to look now at what we're

10 marking as Exhibit 395. 02:13:56

11 (Exhibit 395 was marked for

12 identification by the court reporter and is

13 attached hereto.)

14 MS. WEAVER: That's tab 39. That bears

15 Bates number ADVANCE-META -578 through -585. 02:14:03

16 And for the record, it bears the words

17 "FTC order records management policy."

18 THE DEPONENT: I have it up.

19 Q. (By Ms. Weaver) What is Exhibit 395?

20 A. It is the FTC order records management 02:14:38

21 policy that went into effect April 28th, 2020.

22 Q. And did you review it in preparing for

23 your deposition today?

24 A. I did review it, yes.

25 Q. And to what issue did you find it 02:14:57

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1 relevant to prepare for your deposition today? 02:15:02

2 MR. FALCONER: Objection. Beyond the  
3 scope of the notice.

4 And, Mike -- or excuse me -- Mr. Duffey,  
5 don't reveal the contents of any conversations you 02:15:16

6 had with counsel in the course of giving an answer.

7 If the only thing that you know about that question

8 is something you learned from counsel, I would

9 instruct you not to answer the question.

10 THE DEPONENT: I'll follow my counsel's 02:15:35

11 instruction.

12 Q. (By Ms. Weaver) Do you have an

13 understanding as to what Exhibit 395 is?

14 A. Yes. This is the policy that was put in  
15 place in compliance to the FTC's order that went 02:15:51

16 into effect on April 28th, 2020.

17 Q. And turning to the second page.

18 Do you see a definition there called

19 "covered information"?

20 A. Yes. 02:16:21

21 Q. And is it your understanding that under

22 this order there is a records retention schedule

23 that addresses whether covered information is

24 retained by Facebook?

25 A. I'm not sure I understood the question. 02:16:52

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1 Q. What is the purpose of the policy with 02:16:55  
2 regard to covered information?

3 MR. FALCONER: Objection. Form.

4 Go ahead, Mike.

5 THE DEPONENT: I would -- I would have to 02:17:11  
6 refer to the policy itself. The covered  
7 information looks to be, you know, referenced in --  
8 in multiple places on this records management  
9 policy.

10 Q. (By Ms. Weaver) So there's a definition 02:17:49  
11 for "covered information."

12 Do you see that?

13 A. I do.

14 Q. And a definition for "covered third  
15 party." 02:17:55

16 Do you see that?

17 A. Yes.

18 Q. And the definition for "covered  
19 information" includes "information from or about an  
20 individual consumer, including but not limited to 02:18:03  
21 first or last name; geolocation information  
22 sufficient to identify a street name and name of  
23 city or town; email address or other online contact  
24 information, such as instant messaging identifier  
25 or screen name; mobile or other telephone number; 02:18:21

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1 photos and videos; IP address, user ID, or other 02:18:24  
2 persistent identifier that can be used to  
3 recognized a user over time and across different  
4 device, websites, or online services; social  
5 security number, driver's license, or other 02:18:39  
6 government-issued identification number; financial  
7 account number; credit or debit information; date  
8 of birth, biometric information, any information  
9 combined with any of the above or nonpublic user  
10 information." 02:18:53

11 Do you see that?

12 A. Yes, I do.

13 Q. Excluding nonpublic user information, is  
14 it -- does Facebook understand covered information  
15 to be personal information? 02:19:04

16 MR. FALCONER: Objection. Form and  
17 beyond the scope of the notice.

18 Go ahead, Mike.

19 THE DEPONENT: I've seen some of these  
20 descriptions in the covered information definition 02:19:46  
21 used to define personal information.

22 Q. (By Ms. Weaver) What is Facebook's  
23 understanding of what personal information is?

24 MR. FALCONER: Objection. Beyond the  
25 scope of the notice. 02:20:06

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1 THE DEPONENT: I would -- I would define 02:20:39  
2 "personal information" as information that you  
3 could use to identify a specific person, like an  
4 email address or phone number, social security  
5 information, bank information, driver's license, 02:21:00  
6 and, you know, govern -- government-issued  
7 identification number. Also credit card  
8 information.

9 Q. (By Ms. Weaver) Looking at definition  
10 9 in Exhibit 384, which is the deposition notice. 02:21:15

11 Do you see that it defines "personal  
12 information" in the notice?

13 You have to go back to the very first  
14 exhibit that we marked today, Mr. Duffey.

15 A. Okay. I see it. 02:21:38

16 Q. Is the definition of "personal  
17 information" set forth in definition  
18 No. 9 consistent with your understanding of what  
19 Facebook's understanding personal information is?

20 MR. FALCONER: Objection. Beyond the 02:22:02  
21 scope of the notice.

22 MS. WEAVER: It's literally in the  
23 notice, Russ.

24 THE DEPONENT: The definition in the  
25 30(b)(6) notice seems to be a fair and accurate 02:22:23

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1 definition of what personal information is. 02:22:33

2 Q. (By Ms. Weaver) And going back to  
3 Exhibit 395.

4 A. Okay.

5 Q. Do you see there's a definition there for 02:22:48  
6 "nonpublic user information"?

7 A. I see.

8 Q. Do you see it's defined as "any user  
9 profile information (i.e., information that a user  
10 adds to or is listed on a user's Facebook profile), 02:23:10  
11 or user-generated content (e.g., status updates,  
12 photos) that is restricted by one or more privacy  
13 settings."

14 Do you see that?

15 A. Yes. 02:23:25

16 Q. Is that Facebook's understanding of what  
17 nonpublic user information is?

18 MR. FALCONER: Objection. Form.

19 Go ahead, Mike.

20 THE DEPONENT: Yes. 02:23:40

21 Q. (By Ms. Weaver) And then turning to the  
22 page ending at -581.

23 Do you see where it says "scope of FTCO  
24 records"?

25 A. Yes. 02:24:01

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1 Q. And is this describing categories of 02:24:01  
2 records which must be created and retained by  
3 Facebook or Meta?

4 A. These are the -- the scope of records  
5 that must be created and maintained and retained 02:24:17  
6 for a certain period of time as part of the FTC's  
7 order that went into effect on -- on April 28th,  
8 2020.

9 Q. And there's a reference below to "covered  
10 third party," correct? 02:24:44

11 A. In section B?

12 Q. Yes.

13 A. Yes, I see it.

14 Q. And "covered third party" is defined  
15 earlier at page ending -579 as "any individual or 02:25:04  
16 entity that uses or receives covered information  
17 obtained by or on behalf of Facebook outside of a  
18 user-initiated transfer of covered information,"  
19 and then it lists a few exceptions.

20 Do you see that? 02:25:26

21 A. I do.

22 Q. Is that Facebook's definition of a  
23 covered third party?

24 MR. FALCONER: Objection. Form and  
25 beyond the scope of the notice. 02:25:33

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1 Go ahead, Mike. 02:25:35

2 THE DEPONENT: Yes, this is Facebook's  
3 definition of a covered third party.

4 Q. (By Ms. Weaver) And so going back to the  
5 page ending at -581, is Meta currently required to 02:25:43  
6 retain documents sufficient to identify the types  
7 of covered information that Facebook provides or  
8 makes available to any covered third party, subject  
9 to the requirements set forth there?

10 MR. FALCONER: Objection. Form. 02:26:09

11 Go ahead, Mike.

12 THE DEPONENT: Yes, I believe so. I  
13 would want to review -- there's also a schedule  
14 plan and a file plan attached to -- to this policy  
15 as well that further provides information about the 02:26:34  
16 types of records that would be covered by -- the  
17 section that you just went by -- went off of -- the  
18 documents sufficient to identify the types of  
19 covered information that Facebook provides to any  
20 covered third party. 02:27:03

21 Q. (By Ms. Weaver) And for all of the kinds  
22 of documents listed here in subtopics A through G,  
23 which describes the scope of the FTCO records, is  
24 Meta complying with retention requirements?

25 A. Yes, I believe so. 02:27:25

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1 MR. FALCONER: We've been going a little 02:27:28  
2 more than an hour. When you get to a stepping  
3 point --

4 MS. WEAVER: I'd just like to finish  
5 this -- 02:27:34

6 MR. FALCONER: Yeah, you're fine.

7 Q. (By Ms. Weaver) Would it be possible for  
8 Meta to produce these retained documents in this  
9 litigation without any technical difficulty?

10 MR. FALCONER: Objection. Beyond the 02:27:45  
11 scope of the notice.

12 THE DEPONENT: There are -- there are a  
13 number of approved repositories that are listed in  
14 the -- FTC or records management file plan. I  
15 can't speak to the effort that would be needed to 02:28:08  
16 collect all records.

17 So I don't know that I can -- that I can  
18 answer that specific question.

19 Q. (By Ms. Weaver) Prior to April 2021, did  
20 Facebook preserve documents of the type described 02:28:33  
21 in subcategory B?

22 MR. FALCONER: Objection. Form.  
23 Go ahead.

24 MS. WEAVER: Oh, I misspoke.

25 THE DEPONENT: I don't know. 02:29:04

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1 Q. (By Ms. Weaver) Prior to April 2020, did 02:29:04  
2 Facebook preserve documents of the type described  
3 in subcategory B?

4 MR. FALCONER: Same objection.

5 THE DEPONENT: I don't know the answer. 02:29:27

6 MS. WEAVER: Okay. We can take a break  
7 now.

8 THE VIDEOGRAPHER: Okay. Now we're off  
9 the record. It's 2:29 p.m.

10 (Recess taken.) 02:29:34

11 THE VIDEOGRAPHER: Okay. We're back on  
12 the record. It's 2:43 p.m.

13 Q. (By Ms. Weaver) Mr. Duffey, for  
14 custodians who received the litigation hold letter  
15 relating to this case, did Facebook preserve their 02:43:25  
16 devices as well?

17 A. Any data stored on a device in use by a  
18 custodian, that data is -- you know, custodians are  
19 instructed to preserve any data stored on either --  
20 on a device potentially relevant to a matter. We 02:44:02  
21 have a policy, legal hold policy, where if a device  
22 is being replaced, that device is preserved. The  
23 same is true for departing employees on legal hold  
24 as well.

25 Q. And when you say the device is preserved, 02:44:38

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1       what do you mean? Do you mean a physical device is       02:44:40  
2       preserved, or is there a forensic image, or how it  
3       is preserved?

4           A.     The physical device is preserved.

5           Q.     Ensuring that the litigation hold was       02:45:01  
6       complied with in this case, did Facebook ask  
7       custodians if they used text to communicate?

8           A.     Yes.

9           Q.     And did Facebook preserve texts for the  
10       custodians identified for this case?       02:45:30

11          A.     Any text messages that are deemed  
12       potentially relevant by the custodian, the  
13       custodian is obligated to preserve those text  
14       messages. When we conduct custodian interviews and  
15       text messages are identified, the E-discovery team       02:46:01  
16       will collect those text messages.

17          Q.     Does that include texts on phones and  
18       tablets and any other devices?

19          A.     It would cover any devices, yes.

20          Q.     Does Facebook provide devices or did       02:46:22  
21       Facebook provide devices to any of the custodians  
22       related to this litigation?

23               MR. FALCONER: Object to that --

24               THE DEPONENT: Yes.

25               MR. FALCONER: -- as beyond the scope.       02:46:42

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1 But go ahead and answer the best you can. 02:46:45

2 THE DEPONENT: Yes.

3 Q. (By Ms. Weaver) And what devices are  
4 those?

5 MR. FALCONER: Same objections. 02:47:00

6 THE DEPONENT: Typically Facebook will  
7 provide a laptop and a phone. Through the course  
8 of my work, I have experienced some custodians  
9 using a desktop computer or a tablet.

10 Q. (By Ms. Weaver) And were all such 02:47:30  
11 devices searched and had responsive data preserved  
12 for this litigation?

13 MR. FALCONER: Objection. Form.

14 THE DEPONENT: Again, the custodian is  
15 obligated to preserve all relevant information, 02:47:51  
16 potentially relevant information, related to a  
17 matter, no matter where it's stored. If a  
18 custodian identifies relevant data on a device, the  
19 E-discovery team will collect from those devices,  
20 yes. 02:48:12

21 Q. (By Ms. Weaver) Are you aware of any  
22 failures of any custodian related to this  
23 litigation to preserve relevant information?

24 A. I'm not.

25 Q. Okay. Are you aware of whether Facebook 02:48:25

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1      preserved account level privacy settings for the                         02:48:43

2      named plaintiffs' accounts in this case?

3           A.     We discussed this morning the snapshots  
4     that Facebook undertook to preserve account  
5     information through Switchboard and DYI.   I believe                   02:49:09  
6     there are privacy settings captured in Switchboard,  
7     so I believe my answer would be -- would be yes.

8 Q. And those privacy settings also  
9 maintained in Hive or TAO?

10	MR. FALCONER: Objection. Beyond the	02:49:50
11	scope of the notice.	

12 But go ahead, Mike.

13 THE DEPONENT: I'm not sure.

14 Q. (By Ms. Weaver) Did Facebook preserve  
15 account level privacy settings for the named 02:50:04  
16 plaintiffs' accounts prior to 2020?

17           A.     I'm not sure if historical privacy  
18 settings are captured in either the DYI or  
19 Switchboard snapshot. I also am not sure whether  
20 or not account level privacy settings have been                 02:50:53  
21 preserved within the 137 Hive tables that we have  
22 on legal hold.

23                   Long answer is -- you know, short answer  
24       is I -- I don't know.

25	Q. And are you familiar with the phrase "set	02:51:14
----	--	----------

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1 permissions"? 02:51:16

2 A. No.

3 Q. Do you know whether account level

4 permission settings on posts have been preserved

5 prior to 2020 for the named plaintiffs? 02:51:31

6 A. I don't know.

7 Q. Are you familiar with what an identifier

8 is?

9 MR. FALCONER: Objection. Form.

10 THE DEPONENT: I've heard of the term 02:52:15

11 used. If -- if you could give me some context

12 about --

13 Q. (By Ms. Weaver) Yes.

14 A. -- what you mean by "identifier."

15 Q. Well, it's really what Facebook means 02:52:23

16 that I'm worried about. But fair enough. It's not

17 a great question.

18 You're familiar with the Facebook user

19 ID, correct?

20 A. Yes. 02:52:33

21 Q. And are you familiar with the replacement

22 ID?

23 A. I'm familiar with it, yes.

24 Q. And are you familiar with other

25 identifiers such as the ASID or ADID that can be 02:52:46

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1 associated with users? 02:52:50

2 A. No.

3 Q. Do you know if Facebook took any steps to

4 preserve identifiers associated with the named

5 plaintiffs in this case? 02:53:00

6 A. If -- if that information is part of the

7 137 Hive tables that we have placed on legal hold,

8 then -- then the answer would be yes.

9 Q. Are you familiar with what a cookie is?

10 A. Yes. 02:53:31

11 Q. Did Facebook preserve cookies that are

12 associated with the named plaintiffs in this case,

13 including the full name of datr cookies, for

14 example?

15 A. I'm not sure if that information is 02:53:55

16 captured in a Switchboard or DYI snapshot or if it

17 was -- if it is information that we are preserving

18 as part of the, you know, Hive tables that we have

19 on legal hold for this matter. If that information

20 is contained with -- within any of those snapshots 02:54:13

21 or tables that are being preserved, then yes, we

22 would have.

23 Q. You're aware that hashed versions of the

24 datr cookie values are contained, or at least some

25 of them, in the DYI files; is that true? 02:54:32

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1 MR. FALCONER: Objection. 02:54:37

2 THE DEPONENT: I don't know.

3 MR. FALCONER: Beyond the scope.

4 THE DEPONENT: I don't know.

5 Q. (By Ms. Weaver) Okay. 02:54:46

6 For the named plaintiffs who are active  
7 on Facebook, are there objects and associations  
8 that were once in TAO but are no longer there?

9 A. Can you repeat the question, please.

10 Q. Yes. 02:55:15

11 For the named plaintiffs who are still  
12 active on Facebook, are there objects and  
13 associations that were once in TAO but are no  
14 longer there?

15 A. Yes, potentially. TAO is part of our 02:55:33  
16 production system, and it's a live system.

17 Facebook does not have a tool that prevents user  
18 from interacting with the product. An example of  
19 object in association that may no longer be  
20 available through a snapshot would be something 02:56:05

21 that was deleted by the user or, in the instance of  
22 an interaction, by the user's friends.

23 Q. What has Facebook done to maintain the  
24 objects and associations since the onset of this  
25 litigation? 02:56:31

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A. We've taken snapshots in the Switchboard tool and the DYI tool for -- for each of the named plaintiffs that had data available at the time of the snapshot.

7                   A.     I don't know.

11           A.     If that data is part of the data  
12     contained within the 137 Hive tables that we are  
13     preserving, then the answer is yes.

17           A.    I don't know the answer to that.  That  
18   analysis would -- would be required from somebody  
19   on our E-discovery data science team.

24           A.     I don't know. That would be another

25     answer -- the same answer where our -- our                         02:59:05

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1 E-discovery data science team would have to do that 02:59:09  
2 analysis within the preserved Hive tables.

3 Q. For example, Aleksandr Kogan was a  
4 researcher, correct? And he received data from  
5 Facebook separate from the This is Your Digital 02:59:24  
6 Life app, right?

7 MR. FALCONER: I'm going to object to  
8 this as beyond the scope of the notice and also  
9 object to form.

10 THE DEPONENT: I am aware that 02:59:37  
11 Aleksandr Kogan was an app developer.

12 Q. (By Ms. Weaver) Did Facebook preserve  
13 information showing which users' data Kogan  
14 received?

15 A. I'm not sure, but that would be 03:00:02  
16 information that I think would be captured in Hive,  
17 and if it were part of the tables that we have  
18 placed on hold, the answer would be yes.

19 Q. Did Facebook take any steps to preserve  
20 data which would show which users received the 03:00:36  
21 notice that they may have had their data viewed by  
22 Cambridge Analytica?

23 A. If -- if that information or data is in  
24 the custody or control of any of the custodians  
25 on -- on legal hold, they're under the obligation 03:01:19

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1 to preserve that information. And then the same 03:01:23  
2 would be true for the Hive data tables that we have  
3 preserved for this matter.

4 Q. Did Facebook preserve the list of users  
5 who downloaded the This is Your Digital Life app? 03:01:41

6 A. The same answer. If any of the  
7 custodians on legal hold for this matter have that  
8 information, they would be instructed to preserve  
9 that list. If that information is contained within  
10 the preserved Hive data tables, those would be -- 03:02:13  
11 that information would also be preserved.

12 Q. Did Facebook preserve any information  
13 regarding whose data was sent to Aleksandr Kogan  
14 beyond the named plaintiffs?

15 A. I don't know. 03:02:46

16 Q. Are there logs that reflect whether or  
17 not Cambridge Analytica received named plaintiffs'  
18 data that can be sorted by user ID?

19 MR. FALCONER: I'm going to object to  
20 that as outside the scope of the notice. 03:03:04

21 But go ahead.

22 THE DEPONENT: I don't know.

23 Q. (By Ms. Weaver) And if there were, do  
24 you know if they were preserved?

25 MR. FALCONER: Objection. Form. 03:03:13

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1 THE DEPONENT: If that data was part of 03:03:19  
2 137 data -- Hive tables that we have preserved,  
3 then yes. But I don't know the answer to that  
4 specific question.

5 Q. (By Ms. Weaver) And if they were not 03:03:31  
6 preserved in those 137 tables, is the answer no?

7 A. Unless that information is in the  
8 possession, custody, or control of one of our legal  
9 hold custodians, it's possible that that  
10 information could be preserved through custodial 03:03:58  
11 preservation.

12 Q. Is there any other kind of data that  
13 could identify which Facebook users could have had  
14 their data viewed by Cambridge Analytica other than  
15 what you have just described? 03:04:48

16 MR. FALCONER: Objection. Beyond the  
17 scope of the notice.

18 THE DEPONENT: I don't know.

19 Q. (By Ms. Weaver) What steps has Facebook  
20 taken in this case to preserve information relating 03:05:08  
21 to the identification of class members?

22 MR. FALCONER: Objection. Form.

23 THE DEPONENT: I -- I don't know what the  
24 term "class members" means.

25 Q. (By Ms. Weaver) Does Facebook have a 03:05:30

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1 record of who was signed up for a Facebook account 03:05:31  
2 from 2007 to the present?

3 MR. FALCONER: Objection. Beyond the  
4 scope of the notice.

5 THE DEPONENT: I don't know. 03:05:48

6 Q. (By Ms. Weaver) At the time the  
7 litigation hold was sent, did Facebook make any  
8 attempt to preserve a record of every person who  
9 had signed up for a Facebook account prior to that  
10 time? 03:05:59

11 MR. FALCONER: Objection. Form.  
12 Go ahead, Mike.

13 THE DEPONENT: Can you repeat the  
14 question, please.

15 Q. (By Ms. Weaver) Yeah. 03:06:16  
16 At the time the first litigation hold was  
17 sent relating to this matter, did Facebook make any  
18 attempt to preserve a record that identified every  
19 person who signed up for a Facebook account prior  
20 to the time the litigation hold was sent? 03:06:28

21 MR. FALCONER: Objection. Form.

22 THE DEPONENT: I don't know.

23 Q. (By Ms. Weaver) What steps has Facebook  
24 taken to preserve data relating to what is shared  
25 about the class members in this case? 03:06:53

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1 MR. FALCONER: Objection. Form. 03:06:59

2 THE DEPONENT: I don't know -- I don't

3 know what you mean by "class members."

4 Q. (By Ms. Weaver) Okay. For your

5 edification, everybody who held a Facebook account 03:07:15

6 from January 1, 2007 forward is a class member in

7 the terms of our complaint.

8 So --

9 A. Okay.

10 Q. The question is: What steps has Facebook 03:07:28

11 taken to preserve information which would identify

12 what information is shared about class members in

13 this case?

14 A. I don't know.

15 Q. Has Facebook made an attempt to preserve 03:07:51

16 data or logs that -- which would show what

17 information third parties have received about the

18 class members in this case?

19 A. I don't know.

20 Q. Has Facebook made any attempt to preserve 03:08:12

21 data or logs which would show what information

22 third parties have received about the named

23 plaintiffs in this case?

24 A. As I mentioned, we -- we have 137 Hive

25 data tables preserved and on legal hold for this 03:08:33

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1 matter. If that data is within those tables, that 03:08:42  
2 information would be preserved. I'm not sure  
3 whether or not that data is -- or that information  
4 is contained within a Switchboard or DYI snapshot,  
5 but if it is, we would have preserved it at the 03:09:06  
6 time of this snapshot.

7 Q. Has Facebook taken any steps to preserve,  
8 for example, API call logs or records that would  
9 reflect what information third parties received  
10 about the named plaintiffs in this case? 03:09:22

11 MR. FALCONER: Objection. Form.

12 THE DEPONENT: Russ, I don't know if this  
13 one of those potentially privileged questions or  
14 answers.

15 MR. FALCONER: Okay. 03:09:54

16 MS. WEAVER: You can consult. You want  
17 to go to a breakout room or --

18 MR. FALCONER: Sure.

19 Yeah, why we don't we do -- we'll go off  
20 the record for a second. 03:10:06

21 Mike, can you go into the breakout room?

22 MS. WEAVER: We can go off the record.

23 THE VIDEOGRAPHER: We're off the record,

24 3:10 p.m.

25 (Recess taken.) 03:10:29

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1 THE VIDEOGRAPHER: Okay. We're back on 03:18:20  
2 the record. It's 3:18 p.m.

3 Q. (By Ms. Weaver) I'll restate the  
4 question.

5 Mr. Duffey, has Facebook taken any steps 03:18:30  
6 to preserve, for example, API call logs or records  
7 that could reflect what information third parties  
8 received about the named plaintiffs in this case?

9 MR. FALCONER: I'm going to object to the  
10 form of the question. 03:18:47

11 And then, Mr. Duffey, I'll instruct you  
12 to limit your answer to this question to  
13 nonprivileged information.

14 THE DEPONENT: Understood.

15 If -- if -- if that information regarding 03:19:00  
16 API call logs is stored within any of the 137 Hive  
17 tables we have preserved for this matter or is  
18 information stored by or by any of other legal hold  
19 custodians, that information would be preserved for  
20 this matter. 03:19:42

21 Q. (By Ms. Weaver) But specifically with  
22 regard to API call logs, has Facebook preserved any  
23 information in API call logs that would reflect  
24 what information about class members was shared  
25 with third parties? 03:20:02

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1 MR. FALCONER: Objection. Form. 03:20:07

2 And, again, same instruction, Mr. Duffey,  
3 not to reveal any privileged communications or  
4 privileged information in the course of your  
5 answer. 03:20:18

6 THE DEPONENT: Same -- same answer in  
7 respect to class members as I answered with respect  
8 to the named plaintiffs.

9 Q. (By Ms. Weaver) What steps has Facebook  
10 taken to preserve data that could be associated 03:20:33  
11 with the named plaintiffs from systems that have  
12 been deprecated since the onset of the litigation?

13 A. I'm not aware of any systems that have  
14 been deprecated since the onset of the litigation.  
15 I was informed that Facebook is in the process of 03:21:02  
16 deprecating one system called EverStore, which --  
17 which stores, from what I'm told, large files like  
18 photos and videos.

19 That -- that EverStore system, we're in  
20 the process of migrating that data over to a new 03:21:35  
21 system called Manifold, and common practice for  
22 Facebook is to -- for any deprecated system to  
23 ensure that the data is -- is appropriately  
24 migrated to the new system.

25 Q. Are you aware of any deprecated 03:22:07

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1 practices? 03:22:09

2 MR. FALCONER: Objection. Form. And  
3 beyond the scope of the notice.

4 But go ahead, Mike.

5 THE DEPONENT: I'm not sure what you mean 03:22:21  
6 by "practice."

7 Q. (By Ms. Weaver) Do you know what  
8 whitelisting is as it is used in this case?

9 A. I've heard the term "whitelisting"  
10 before. As it's used in this case, I'm not sure. 03:22:39

11 Q. What is your understanding --

12 A. If I --

13 Q. Oh, I'm sorry, Mr. Duffey.

14 What were you saying? I didn't mean to  
15 cut you off. 03:22:57

16 A. Yeah, I've heard the term "whitelisting,"  
17 but I'm just -- I don't have an understanding of --  
18 of what that term means in context with this  
19 matter. But if you could explain it to me, I can  
20 attempt to answer your question. 03:23:11

21 Q. At some point in time, did Facebook  
22 transition from Graph API version 1.0 to 2.0?

23 MR. FALCONER: Objection. Beyond the  
24 scope of the notice.

25 THE DEPONENT: I understand that that did 03:23:30

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1       happen, yes. 03:23:33

2           Q.     (By Ms. Weaver) And you understand that  
3       part of the allegations in this complaint, for  
4       which you were partly responsible for identifying  
5       custodians and preserving evidence, is that certain 03:23:40  
6       third parties were whitelisted or exempted from  
7       being cut off from certain data available in Graph  
8       API version 1.0; is that right?

9           MR. FALCONER: Objection. Beyond the  
10       scope. 03:24:01

11           Again, go ahead, Mike.

12           THE DEPONENT: I have general minimum  
13       understanding of this, yes.

14           Q.     (By Ms. Weaver) Did Facebook preserve a  
15       list of the third parties who were whitelisted 03:24:18  
16       after the transition from Graph API version 1.0 to  
17       2.0?

18           A.     If any of the 469 custodians placed on  
19       legal hold for this matter have that information of  
20       the -- of the companies that were whitelisted, they 03:24:51  
21       would have preserved that information. I'm not  
22       sure whether or not that information is contained  
23       within any of our Hive tables, but if it were part  
24       of the 137 Hive tables that we have preserved for  
25       this matter, again, that -- that information would 03:25:13

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1 be preserved in those -- the Hive tables on legal 03:25:15

2 hold.

3 Q. Did Facebook take any -- any steps to  
4 preserve records of which third parties received  
5 the named plaintiffs' data after they were 03:25:28  
6 whitelisted?

7 A. Same answer.

8 Q. There are logs that reflect what third  
9 parties have accessed in terms of user data,  
10 correct? 03:25:49

11 MR. FALCONER: Objection. Form.

12 THE DEPONENT: Can you repeat the  
13 question, please.

14 Q. (By Ms. Weaver) Sure.

15 There are APIs or interfaces that 03:26:03  
16 reflect -- strike that.

17 Are there logs or records that reflect  
18 what data third parties have accessed from Facebook  
19 that existed at the time the litigation hold in  
20 this case was set -- 03:26:27

21 MR. FALCONER: Objection. Beyond the  
22 scope.

23 Q. (By Ms. Weaver) -- correct?

24 A. I don't know.

25 Q. So other than the Hive tables and the 03:26:33

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1 snapshots we've discussed, did Facebook take any 03:26:38  
2 steps to preserve data in Facebook's systems that  
3 could be used to identify what information third  
4 parties received from Facebook about users?

5 A. I just want to make sure I understand the 03:27:17  
6 question. Do you mind repeating it one more time,  
7 please.

8 Q. No problem.

9 Other than Hive tables and the snapshots  
10 we have discussed and other than custodial files, 03:27:26  
11 did Facebook take any steps to preserve data in  
12 Facebook's systems, for example, APIs or logs, that  
13 could be used to identify what information third  
14 parties received from Facebook about class members?

15 MR. FALCONER: Objection. Form. 03:27:53

16 THE DEPONENT: I don't know.

17 Q. (By Ms. Weaver) You're aware that as  
18 part of the ADI investigation, Facebook disallowed  
19 access to user data for certain third parties,  
20 correct? 03:28:22

21 MR. FALCONER: Objection. Beyond the  
22 scope of the notice.

23 THE DEPONENT: I didn't -- I wasn't -- I  
24 don't think I was aware of that, no.

25 Q. (By Ms. Weaver) Do you know if Facebook 03:28:32

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1 maintained a list of the third parties whose access 03:28:33  
2 to Facebook's data was cut off following Cambridge  
3 Analytica?

4 MR. FALCONER: Objection. Beyond the  
5 scope. 03:28:51

6 THE DEPONENT: I don't understand the  
7 question.

8 Q. (By Ms. Weaver) Following the  
9 Cambridge Analytica scandal, what steps did  
10 Facebook take to preserve information relating to 03:29:05  
11 which third parties were improperly accessing class  
12 members' data?

13 A. We sent legal hold notifications to  
14 custodians in the Cambridge Analytica matter as  
15 well as legal hold custodians in the app developer 03:29:35  
16 investigation matter and instructed those  
17 custodians to preserve all relevant data related to  
18 those matters.

19 We also placed Hive tables on legal hold  
20 for both the Cambridge Analytica matter as well as 03:29:59  
21 the app developer investigation matter.

22 Q. Does Facebook maintain a record of what  
23 third parties are accessing information through its  
24 APIs?

25 MR. FALCONER: Objection. Beyond the 03:30:22

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1 scope of the notice. 03:30:22

2 THE DEPONENT: I don't know.

3 Q. (By Ms. Weaver) Did Facebook make any

4 attempt to preserve in back-end logs data that

5 would allow Facebook to identify whether class 03:30:32

6 members' data was accessed by third parties?

7 MR. FALCONER: Objection to form.

8 THE DEPONENT: I don't know what the term

9 "back-end logs" means.

10 Q. (By Ms. Weaver) So front-end logs are 03:30:53

11 where data is received and back-end logs is where

12 it is sent out through the platform.

13 Does Facebook maintain a record of which

14 third parties are accessing the data of class

15 members? 03:31:10

16 MR. FALCONER: I'm going to object to the

17 form of the question and also object as beyond the

18 scope of the notice.

19 THE DEPONENT: I don't know.

20 Q. (By Ms. Weaver) What steps has Facebook 03:31:23

21 taken since the filing of this lawsuit to track or

22 monitor what third parties have been receiving

23 named plaintiffs' data?

24 MR. FALCONER: Objection. Beyond the

25 scope of the notice. 03:31:38

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1 THE DEPONENT: We have sent the legal 03:31:42  
2 hold notification to -- the legal hold notice to  
3 469 custodians as well as placed 137 tables on  
4 legal hold. Those were the -- the preservation  
5 steps. 03:32:04

6 MR. FALCONER: Lesley, you're on mute.

7 THE DEPONENT: I can hear you.

8 (Discussion off the stenographic record.)

9 Q. (By Ms. Weaver) Okay. I'll direct your  
10 attention to page 3 of Exhibit 389 please. 03:32:28

11 And for the record, it reads in point 8  
12 there: "Please provide definitions for the  
13 departments identified in your August 17th letter."

14 And I'll note for the record --

15 MR. FALCONER: Can you give me just a 03:32:47  
16 second to get there? I'm sorry.

17 MS. WEAVER: No problem.

18 MR. FALCONER: Can you state where you  
19 are again.

20 MS. WEAVER: Exhibit 389, page 3. 03:32:53

21 MR. FALCONER: Page 3. Okay.

22 Q. (By Ms. Weaver) And for the record, this  
23 lists the departments that Gibson Dunn identified  
24 as having received the legal hold notice in 2018.

25 Do you see that? 03:33:14

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1 A. Okay. I do. 03:33:15

2 Q. And it lists management which are members  
3 of the leadership team.

4 Do you see that?

5 A. Uh-huh. Yes. 03:33:23

6 Q. Do you know who in management received  
7 the legal hold notice?

8 A. I don't recall the names of all of the  
9 individuals on the leadership team as of  
10 September 6th, 2018. 03:33:59

11 I can confirm, though, that we do have  
12 members of the leadership team on -- on legal hold.

13 Q. And do you know by name who?

14 A. I just don't recall who was -- who was  
15 part of the leadership team at that time. I can 03:34:29  
16 confirm that both Mark Zuckerberg and  
17 Sheryl Sandberg were on the -- the Cambridge legal  
18 hold at that time. But -- but other management  
19 members, I'm not sure.

20 Q. Do you know if Javier Olivan was? 03:34:43

21 A. I can't confirm that at the time of this  
22 letter. I do believe Mr. Olivan is on legal hold  
23 for Cambridge Analytica.

24 Q. And then legal -- the legal department  
25 also received a legal hold notice; is that right? 03:35:14

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1           A.    Members of the legal department I believe           03:35:22  
2   received the legal hold notice, yes.

3           Q.    And then members of the policy department  
4   and communications department received the legal  
5   hold notice; is that correct?                               03:35:37

6           A.    I have no reason to believe that this --  
7   that statement -- those two statements are  
8   inaccurate.

9           Q.    And do you see it refers here to  
10   "platform and development operations"?                   03:35:53

11          A.    I do.

12          Q.    And did they receive the legal hold  
13   notice?

14          A.    Members of the platform team development  
15   operations team did -- did receive a copy of the           03:36:08  
16   legal hold notice, yes.

17          Q.    And what is platform operations?

18          A.    I believe that at one time it was  
19   called -- if -- I feel like this might be a -- a  
20   typo here. I think what was intended to say is           03:36:44  
21   "developer operations" instead of "development  
22   operations."

23                And I know that that team formally  
24   referred to as "developer operations" is now  
25   referred to as "platform operations."                   03:37:01

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1 Q. And what does platform operations do? 03:37:07

2 A. I'm not sure of their -- their job  
3 function.

4 Q. So other than --

5 MR. FALCONER: I'm sorry. 03:37:53

6 Mike, are you done?

7 THE DEPONENT: Yeah, I'm just -- I'm just  
8 trying to think if there's -- there's a summary or  
9 a description that I can provide.

10 MR. FALCONER: While you're thinking, I 03:38:06  
11 just had -- did not an objection out before you  
12 started your answer.

13 This question is beyond the scope of the  
14 notice. But I wanted to put that objection in.

15 Go ahead. Keep thinking. You can 03:38:17  
16 answer. I just wanted to make that record.

17 THE DEPONENT: Yeah, I'm sorry. I don't  
18 know that I can -- can provide like an accurate  
19 description of what the platform operations team  
20 does. 03:38:52

21 Q. (By Ms. Weaver) Do you know if platform  
22 and development operations teams as described here  
23 took any steps to preserve on a systemwide basis  
24 information that would allow Facebook to identify  
25 what information it was sending to third parties 03:39:09

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1 about the class members in this case? 03:39:14

2 MR. FALCONER: Objection. Form.

3 THE DEPONENT: If through the course of  
4 our custodian interviews of members of either of  
5 these two teams identified Hive tables relevant 03:39:36

6 to -- to your question, those Hive tables would  
7 have been placed on legal hold for preservation.

8 Q. (By Ms. Weaver) Anything else you can  
9 think of?

10 A. Members of those teams who received the 03:40:07  
11 legal hold notice would be instructed to preserve  
12 any and all data related to the topics listed in  
13 the legal hold notice.

14 Q. When you say "any and all data," what do  
15 you mean? 03:40:23

16 A. All ESI, hard copy materials, or  
17 structured data like the data that is stored in  
18 Hive tables.

19 Q. Are you aware of any data not kept in  
20 Hive tables and not kept in custodial files that 03:40:40  
21 was preserved that could identify what information  
22 third parties received about class members in this  
23 case?

24 MR. FALCONER: Objection. Form.

25 THE DEPONENT: In general, most of our -- 03:41:02

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1 our data or ESI is not under a retention schedule 03:41:05  
2 or deletion schedule, so unless -- unless an  
3 employee were to proactively delete that  
4 information, we would have preserved that  
5 information through our various data sources that 03:41:44  
6 we use within the company.

7 Q. (By Ms. Weaver) Okay. I understand your  
8 answer, but I'm really trying to ask something  
9 very, very specific.

10 Did Facebook take any steps on a systemic 03:42:03  
11 basis to preserve information in logs such as the  
12 API call logs that would identify what data third  
13 parties received about the class members in this  
14 case?

15 MR. FALCONER: I'm going to object to the 03:42:24  
16 form of that question.

17 And then, again, Mr. Duffey, remind you  
18 to exclude any privileged information or contents  
19 of any privileged communications in your answer.

20 THE DEPONENT: Beyond the data that is on 03:42:41  
21 legal hold in the 137 tables that we have on -- on  
22 hold, Hive tables, I'm not aware of any, you know,  
23 additional measures to preserve that data.

24 Q. (By Ms. Weaver) And then is it your  
25 understanding that members of the advertising, 03:43:11

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1 sales, and marketing departments, the security 03:43:13  
2 department, the privacy team, human resources,  
3 growth, academic research, engineering, and user  
4 research all received litigation hold notices in  
5 this case on or around March of 2018? 03:43:33

6 MR. FALCONER: Objection. Form.

7 THE DEPONENT: This -- this letter is  
8 dated December 6th, 2018. I have no reason to --  
9 to not believe or -- that the accuracy of these  
10 statements as it pertains to the various teams 03:44:05  
11 within our organization that were placed on legal  
12 hold.

13 So by -- by the September 6th, 2018, I  
14 would agree that -- that members from all of these  
15 groups or teams were placed on legal hold. 03:44:24

16 Q. (By Ms. Weaver) Are you aware of any  
17 other departments that received the legal hold  
18 notice in 2018?

19 MR. FALCONER: Objection. Form.

20 Go ahead, Mike. 03:44:43

21 THE DEPONENT: No, this seems like --  
22 like a comprehensive list.

23 Q. (By Ms. Weaver) Okay.

24 MS. WEAVER: We'll take a quick break and  
25 we'll be back in like five. We can go off the 03:45:14

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1 record. 03:45:17

2 THE VIDEOGRAPHER: Okay. We're off the  
3 record. It's 3:45 p.m.

4 (Recess taken.)

5 THE VIDEOGRAPHER: Okay. We're back on 03:51:22  
6 the record. It's 3:51 p.m.

7 Q. (By Ms. Weaver) Mr. Duffey, were you  
8 aware of a motion that Facebook brought in this  
9 case that (inaudible) permission not to preserve  
10 data? 03:51:36

11 MR. FALCONER: Objection. Form and  
12 outside the scope of the notice.

13 And, Mr. Duffey, I want to exclude from  
14 your answer anything you learned from conversations  
15 with counsel in this case, privileged 03:51:45  
16 conversations.

17 THE DEPONENT: No, I'm not.

18 Q. (By Ms. Weaver) Do you know what a  
19 method table is?

20 A. I've heard of -- I've heard of the -- the 03:52:05  
21 term "method table." I -- I do not know what it  
22 is, no.

23 Q. When Facebook was implementing its  
24 preservation program in response to this lawsuit,  
25 did it consult with engineers to consider whether 03:52:30

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1 API call logs should be preserved in order to keep 03:52:34  
2 a record of what data third parties obtained about  
3 the plaintiffs in this case?

4 MR. FALCONER: So objection to form.

5 And, again, Mr. Duffey, if there were any 03:52:51  
6 privileged conversations that you were part of that  
7 would otherwise be responsive to that question, you  
8 should exclude from your answer.

9 THE DEPONENT: I heard you mention that  
10 phrase "preservation programs," and I'm not sure I 03:53:08  
11 understand what that means. I just want to make  
12 sure I get clarity on that before I attempt to  
13 answer your question.

14 Q. (By Ms. Weaver) I just mean attempts to  
15 preserve. But I can restate the question. 03:53:18

16 When Facebook implemented its retention  
17 policy in response to this lawsuit, did Facebook  
18 consult with engineers to consider whether API call  
19 logs should be preserved in order to keep a record  
20 of what data third parties obtained about class 03:53:36  
21 members in this case?

22 MR. FALCONER: Again, objection. Form.

23 And, Mr. Duffey, the same instruction on  
24 privilege, which I can repeat if you need me to.

25 THE DEPONENT: I don't know. 03:54:05

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1 Q. (By Ms. Weaver) Who would know? 03:54:06

2 A. Custodian interviews are conducted by our  
3 outside counsel and in-house counsel. I think -- I  
4 think they would be the appropriate people to ask  
5 that question. 03:54:47

6 Q. Other than custodial linked data sources,  
7 did Facebook preserve ESI in central repositories?

8 A. What do you mean by "central repository"?

9 Q. For example, is financial information  
10 preserved at Facebook in a centralized repository 03:55:34  
11 that is not custodially limited?

12 A. I'm aware of teams that use central  
13 repositories like a Google Drive or a SharePoint or  
14 a network share. So if you can repeat the question  
15 I -- I think I -- I can attempt to answer. 03:56:28

16 Q. Other than custodial data sources, did  
17 Facebook preserve ESI in central repositories?

18 A. I think I mentioned this before. Central  
19 repositories like Google Drive or like a network  
20 share or like a SharePoint are not under any 03:56:54  
21 auto-deletion or retention period. Data that lives  
22 within a central repository would have to be  
23 deleted by some lady who had access to those  
24 central repositories.

25 And as I stated earlier, I'm not aware -- 03:57:26

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1 I have never -- our E-discovery team has not been 03:57:29  
2 made aware of any deletion that has occurred in a  
3 central repository for this matter.

4 Q. Did Facebook take any steps to preserve  
5 logs that reflect what data SDKs were obtaining 03:57:57  
6 that related to class member data?

7 MR. FALCONER: Objection. Form.

8 THE DEPONENT: I don't know what an SDK  
9 is, but if that were data that is part of the Hive  
10 tables that have been preserved for this matter, 03:58:25  
11 then yes, we would have preserved it.

12 Q. (By Ms. Weaver) Okay. Is it Facebook's  
13 usual practice that data in Hive tables subject to  
14 legal holds are automatically put in cold storage?

15 MR. FALCONER: Objection. Form. 03:58:59

16 THE DEPONENT: It has been the  
17 E-discovery -- E-discovery data science team's  
18 approach or mechanism for placing Hive tables on  
19 legal hold to move that data into cold storage.

20 Q. (By Ms. Weaver) How long does it take to 03:59:34  
21 get data out of cold storage?

22 MR. FALCONER: Objection. Beyond the  
23 scope of the notice.

24 THE DEPONENT: I think it would depend  
25 on -- on the size of the data that would be needed 03:59:51

## CONFIDENTIAL

1 to -- be taken out of cold storage. So I -- so I 03:59:56  
2 don't know -- I don't know how long it would take.  
3 But it -- it certainly would depend on the size of  
4 the -- the data or the Hive table.

5 Q. (By Ms. Weaver) Do you know whether the 04:00:17  
6 data in the 137 Hive tables is available anywhere  
7 else at Facebook?

8 A. I don't know -- I don't know that I can  
9 answer that question. I don't know.

10 Q. When you said it would depend on the size 04:00:55  
11 of the data, can you give a rough estimate as to  
12 how long it would take to get Hive tables out of  
13 cold storage?

14 MR. FALCONER: Objection. Beyond the  
15 scope. 04:01:07

16 THE DEPONENT: I can't -- I can't. I  
17 mean Hive tables, especially ones that are on legal  
18 hold, grow in size every single day that new data  
19 is put into cold storage. I'm -- I -- I have no  
20 idea how long it would take, but I know that it 04:01:30  
21 would be dependent on -- on the size of the tables.

22 Q. (By Ms. Weaver) Is --

23 A. Our data science -- I would ask our data  
24 science team on -- on sort of a timetable depending  
25 on which tables were -- were -- you're referring 04:01:49

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1 to. 04:01:52

2 Q. Are we talking weeks or months?

3 MR. FALCONER: Same objection.

4 THE DEPONENT: Possibly. I don't know.

5 Q. (By Ms. Weaver) Has Facebook ever 04:02:07

6 brought tables out of cold storage that have been

7 put in there on a litigation hold?

8 MR. FALCONER: Same objection.

9 THE DEPONENT: I believe so.

10 Q. (By Ms. Weaver) On how many occasions? 04:02:33

11 MR. FALCONER: Objection. Beyond the

12 scope.

13 THE DEPONENT: I don't -- I don't know.

14 I've only work on a subset of a total number of

15 active regulatory and litigation matters within -- 04:02:47

16 within our legal department, so I don't know the

17 answer to that question.

18 Q. (By Ms. Weaver) How many times are you

19 aware of that Facebook has brought data out of cold

20 storage? 04:03:00

21 MR. FALCONER: Objection. Beyond the

22 scope.

23 THE DEPONENT: I don't have a number.

24 Q. (By Ms. Weaver) Is it more than ten?

25 MR. FALCONER: Same objection. 04:03:14

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1 THE DEPONENT: I don't know. 04:03:18

2 Q. (By Ms. Weaver) Have you ever personally  
3 been involved in a matter where Facebook brought  
4 data out of cold storage?

5 MR. FALCONER: Objection. Beyond the 04:03:34  
6 scope.

7 THE DEPONENT: Yeah, I'm -- I'm  
8 struggling with this question because I've never  
9 heard sort of the term "taking data out of cold  
10 storage." 04:04:26

11 I am aware of our E-discovery data  
12 science team producing structured data in -- in  
13 matters. Whether or not it was taken out of cold  
14 storage or not, I'm -- I'm just not clear on that  
15 process. 04:04:52

16 Q. (By Ms. Weaver) And in what matters did  
17 Facebook's data science team produce structured  
18 data out of cold storage?

19 MR. FALCONER: Objection. Beyond the  
20 scope. 04:05:08

21 THE DEPONENT: No -- no specific matters  
22 come to mind that I can -- I can tell you sitting  
23 here.

24 Q. (By Ms. Weaver) Who is involved with  
25 producing the structured data out of cold storage? 04:05:57

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1 MR. FALCONER: Objection. Beyond the 04:06:05  
2 scope.

3 THE DEPONENT: Any -- any data that is  
4 produced from Hive tables goes through a stat  
5 review process that involves different 04:06:26  
6 cross-functional partners within the company,  
7 including E -- E-discovery, legal. It depends  
8 on -- on what the data is and who the owners of  
9 that data are.

10 Q. (By Ms. Weaver) Does putting Hive logs 04:07:02  
11 in cold storage make it less accessible?

12 MR. FALCONER: Objection. Form and  
13 beyond the scope of the notice.

14 THE DEPONENT: When data is put into cold  
15 storage, only the E-discovery team would -- would 04:07:27  
16 have access to that data. So I -- I believe it  
17 does make it more difficult to access the data,  
18 yes.

19 Q. (By Ms. Weaver) What is cold storage,  
20 exactly? 04:07:53

21 MR. FALCONER: Same objection.

22 THE DEPONENT: I'm not a data scientist.  
23 All I know is that that's the storage space for  
24 which, for instance, legal hold data, Hive data is  
25 preserved. 04:08:20

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1 Q. (By Ms. Weaver) You understand that you 04:08:23  
2 were to testify today regarding the  
3 Special Master's question "were any high Hive  
4 tables containing named plaintiff data placed in  
5 cold storage during the pendency of this 04:08:32  
6 litigation," right?

7 A. Yes.

8 Q. So what does it mean to place Hive tables  
9 in cold storage?

10 A. That is our -- our mechanism for placing 04:08:44  
11 Hive data on legal hold so that it cannot be  
12 altered, modified, or deleted.

13 Q. Does placing it in cold storage make it  
14 less accessible, meaning in terms of being able to  
15 search or access the data? 04:09:07

16 MR. FALCONER: Objection. Beyond the  
17 scope.

18 But go ahead.

19 THE DEPONENT: I don't know. I -- I  
20 would have to ask our -- our data science team that 04:09:20  
21 specific question.

22 MS. WEAVER: Okay. I have no further  
23 questions at this time. We will seek a deponent to  
24 answer on the questions that the witness was not  
25 able to answer. 04:09:38

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1 But, Mr. Duffey, I want to thank you 04:09:39  
2 very, very much for your time and effort and the  
3 time you took to prepare for this deposition.

4 THE DEPONENT: And thank you, Ms. Weaver.

5 MR. FALCONER: We'll reserve all rights. 04:09:48  
6 We'd like to read and sign, and mark the transcript  
7 "Confidential" pending the final confidentiality  
8 designations.

9 MS. WEAVER: Okay. We can go off the  
10 record. 04:09:58

11 THE VIDEOGRAPHER: Thank you.

12 We're off the record. It's 4:10 p.m.

13 (TIME NOTED: 4:10 p.m.)

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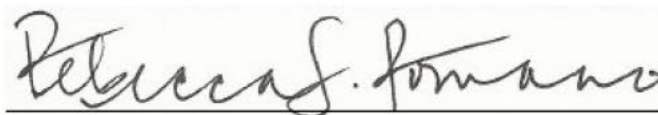
1 I, Rebecca L. Romano, a Registered  
2 Professional Reporter, Certified Shorthand  
3 Reporter, Certified Court Reporter, do hereby  
4 certify:

5 That the foregoing proceedings were taken  
6 before me remotely at the time and place herein set  
7 forth; that any deponents in the foregoing  
8 proceedings, prior to testifying, were administered  
9 an oath; that a record of the proceedings was made  
10 by me using machine shorthand which was thereafter  
11 transcribed under my direction; that the foregoing  
12 transcript is true record of the testimony given.

13 Further, that if the foregoing pertains to the  
14 original transcript of a deposition in a Federal  
15 Case, before completion of the proceedings, review  
16 of the transcript [ ] was [X] was not requested.

17 I further certify I am neither financially  
18 interested in the action nor a relative or employee  
19 of any attorney or any party to this action.

20 IN WITNESS WHEREOF, I have this date  
21 subscribed my name this 7th day of June, 2022.

22  
23 

24 Rebecca L. Romano, RPR, CCR  
25 CSR. No 12546

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RUSSELL H. FALCONER

rfalconer@gibsondunn.com

June 7, 2022

RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION

JUNE 2, 2022, MICHAEL DUFFEY, JOB NO. 5234611

The above-referenced transcript has been completed by Veritext Legal Solutions and review of the transcript is being handled as follows:

\_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext to schedule a time to review the original transcript at a Veritext office.

\_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF Transcript - The witness should review the transcript and make any necessary corrections on the errata pages included below, notating the page and line number of the corrections. The witness should then sign and date the errata and penalty of perjury pages and return the completed pages to all appearing counsel within the period of time determined at the deposition or provided by the Code of Civil Procedure.

\_\_\_ Waiving the CA Code of Civil Procedure per Stipulation of Counsel - Original transcript to be released for signature as determined at the deposition.

\_\_\_ Signature Waived - Reading & Signature was waived at the time of the deposition.

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1 xx Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2 Transcript - The witness should review the transcript and  
3 make any necessary corrections on the errata pages included  
4 below, notating the page and line number of the corrections.  
5 The witness should then sign and date the errata and penalty  
6 of perjury pages and return the completed pages to all  
7 appearing counsel within the period of time determined at  
8 the deposition or provided by the Federal Rules.

9 \_\_\_ Federal R&S Not Requested - Reading & Signature was not  
10 requested before the completion of the deposition.

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1 I, MICHAEL DUFFEY, do hereby declare under  
2 penalty of perjury that I have read the foregoing  
3 transcript; that I have made any corrections as  
4 appear notes; that my testimony as contained  
5 herein, as corrected, is true and correct.

6 Executed this \_\_\_\_ day of \_\_\_\_\_,  
7 2022, at \_\_\_\_\_, \_\_\_\_\_.

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12 MICHAEL DUFFEY  
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RE: FACEBOOK, INC., CONSUMER USER PROFILE LITIGATION  
MICHAEL DUFFEY (JOB NO. 5234611)

## E R R A T A S H E E T

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MICHAEL DUFFEY

Date

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[&amp; - 2nd]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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